

# **COLORADO REVISED STATUTES**



**TITLES 22-23**

**2012**



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# Colorado Revised Statutes 2012

Titles 22-23  
Education  
Postsecondary Education



Edited, Collated, Revised,  
Annotated, and Indexed  
Under the Supervision and Direction of the

COMMITTEE ON LEGAL SERVICES

by

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*Reenacted by the General Assembly as the  
Positive Statutory Law of Colorado of a General and Permanent Nature  
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**CERTIFICATION  
OF  
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The Committee on Legal Services hereby certifies that the 2012 Colorado Revised Statutes includes all the laws of a general and permanent nature of the state of Colorado as revised and reenacted in Colorado Revised Statutes 1973, together with all of the laws of a general and permanent nature enacted by the General Assembly subsequent to 1973, as corrected, collated, and revised as authorized by and in conformity with Article 5 of Title 2, Colorado Revised Statutes.

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## Source Note Information

A source note shows the legislative history of a C.R.S. section and is located immediately after the text of the section. The source note for each section indicates the year the section was added, each year it was amended, and the page of the Session Laws and the section of the bill where the amendment can be found. The source note includes the number of the section in prior codifications when applicable. For amendments made after 1973, information on each specific provision of the section that has been changed by a bill, the specific change to the provision (i.e. added, added with relocations, amended, amended with relocations, repealed, repealed and reenacted, or recreated and reenacted), and the effective date of the bill are shown.

The legislative history is arranged by year of passage; if the section was amended by two or more acts in the same year, the order of the information for that year is determined by the effective dates of the acts. The effective date in the source note indicates the date the act or portion of the act takes effect even if the text of the amendment indicates a different date. If the year is not included with the month and day, the provision is effective the year of passage. Additional information to assist the user in researching C.R.S. sections can be found beginning on page vii.

The following provides a further explanation of the information found in a source note:

“L.” is the symbol for “Session Laws” and will be followed by a number indicating the year when the C.R.S. section was changed by an act generally either creating new law, amending existing law, or repealing existing law; except that, in the constitution, “L.” also means constitutional measures referred by the General Assembly and voted on by the people of Colorado at a general or an odd-year election.

“Ex. Sess.” is the symbol for “Extraordinary Session”. If this symbol follows the year, the amended provision can be found in the Session Laws for an extraordinary session for that year and not in the Session Laws for the regular session of the General Assembly for that year (S, S2 in the Red Book).

“p.” is the symbol for “page” and will be followed by a number indicating the page of the Session Laws where the amendment to the C.R.S. section can be found.

“§” is the symbol for “section” and will be followed by a number indicating the section of the act where the amendment to the C.R.S. section can be found.

“IP” is the symbol for the “introductory portion” to a section, subsection, paragraph, or subparagraph.

“Added” means the provision was newly enacted by the act (N in the Red Book).

“Added with relocations” means the provision in existing law was relocated from one title, article, part, or section to another title, article, part, or section with amendments by the act.

“Amended” means the provision in existing law was amended by the act (A in the Red Book).

“Amended with relocations” means the provision in existing law was amended to reorganize an entire title, article, part, or section by the act.

“Repealed” means the provision was deleted from the existing law by the act through the use of a repeal provision (R in the Red Book).

“R&RE” is the symbol for “Repealed and Reenacted” and means the provision in existing law was repealed and reenacted by the act (RE in the Red Book).

“RC&RE” is the symbol for “Recreated and Reenacted” and means a previously repealed provision has been recreated by the act (RC in the Red Book).

“Added by revision” means a provision providing for the repeal of a statutory provision on a specified date has been added by the Revisor of Statutes as a C.R.S. provision. Adding the provision is necessary because a separate section of the act provided for the repeal of the provision with a future effective date.

“Initiated” means a provision that was amended by means of an initiated petition approved by a vote of the people of Colorado at a general or an odd-year election.

“Referred” means a provision that was amended by a measure referred by the General Assembly and voted on by the people of Colorado at a general or an odd-year election; except that, in the constitution, a referred measure is indicated by “L.” and also means constitutional measures referred by the General Assembly and voted on by the people of Colorado at a general or an odd-year election.

Starting in 2009, references to the bill number and chapter number have been included in the source note. If you are conducting a search on-line, the bill number reference within the source note links directly to the bill itself.

## **Colorado Statutory Research**

Legislative history is not already written. It must be compiled by the researcher from many different sources and materials. The following information is a helpful starting point in identifying information you wish to research. Consult the red book table distributed with the session laws, the softbound editions of Colorado Revised Statutes beginning in 1997, the comparative tables located in the back of the C.R.S. index, C.R.S. 1963 and subsequent cumulative supplements thereto through 1971, and C.R.S. 1973 and annual cumulative supplements thereto through 1996.

Prior to 1921, enacted laws were not compiled into a comparative table, thereby making it more difficult to track the legislative history. Determining the subject matter in the statutory index is the only choice for tracking the history of a statute since a statute did not retain its original number. The General Statutes of 1883 arranged laws into numbered chapters, alphabetically entitled, collated, and arranged by sections. This became the foundation and

model for compiling the statutes until the codification of C.R.S. 1973. (See Revised Statutes of Colorado 1908, An Act Providing For the Compilation, Publication, and Distribution of all the general statutes of the state.)

References in some source notes throughout the Colorado Revised Statutes to “Code 08”, “Code 21”, and “Code 35” are to the Revised Statutes of Colorado 1908, the Compiled Laws of Colorado 1921, and the Colorado Statutes Annotated 1935, respectively. Each of these volumes set forth the general statutes of the state of Colorado, including the Code of Civil Procedure and, in 1935, the Colorado Supreme Court Rules. On January 6, 1941, the Colorado Supreme Court adopted the new Rules of Civil Procedure, which became effective on April 6, 1941, resulting in the publication of a replacement volume. Thereafter, the publication of the Colorado Court Rules, although a continuing part of the Colorado Revised Statutes, contained a combination of the Federal Rules and the Colorado Code of Civil Procedure and, in addition, included some provisions that were entirely distinct from both the Federal Rules and the Colorado Code of Civil Procedure, as adopted or amended by the Supreme Court of Colorado.

To research a statute as it existed in previous years, the following is a chronological list of C.R.S. publications and the correct citation for each publication.

Revised Statutes of Colorado	(1868)	R.S.
General Laws of Colorado	(1877)	G.L.
General Statutes of Colorado	(1883)	G.S.
Revised Statutes of Colorado	(1908)	R.S. 08
Compiled Laws of Colorado	(1921)	C.L.
Colorado Statutes Annotated	(1935)	CSA
Colorado Revised Statutes 1953	(1953)	CRS 53
Colorado Revised Statutes 1963	(1963)	C.R.S. 1963
Colorado Revised Statutes	(1973)	C.R.S.

**Comparative Tables:**

- R.S. 08 to C.L. 1921 - located in the front of the C.L. 1921
- C.L. 1921 to CSA 1935 - located in the back of the Index to CSA 1935
- CSA 1935 to CRS 1953 - located in the front of the Index to CRS 1953
- CRS 1953 to C.R.S. 1963 - located in the front of the Index to C.R.S. 1963
- C.R.S. 1963 to C.R.S. - located in the back of the Index to C.R.S.

**Supplements to C.R.S. 1963 include:**

- 1965 hardbound supplement containing laws enacted in 1964 and 1965
- 1967 hardbound supplement containing laws enacted in 1966 and 1967
- 1969 hardbound supplement containing laws enacted in 1968 and 1969
- 1971 hardbound supplement containing laws enacted in 1970 and 1971

The softbound publication of the “Official Report of the Committee on Legal Services” was not intended as an official publication of our office. Copies were distributed to the members of the General Assembly for the purpose of certifying the laws enacted in the 1972 and 1973 Sessions for inclusion in the compilation of the 1973 C.R.S., which was not available until 1974. To find the 1972 or 1973 amended language, refer to the session laws of either 1972 or 1973.



**Supplements and Replacement Volumes to C.R.S. 1973 and, on and after 1983, to Colorado Revised Statutes**

<b>Titles</b>	<b>Supplements to C.R.S. 1973 and, on and after 1983, to Colorado Revised Statutes</b>	<b>Replacement Volumes and Supplements to Replacement Volumes</b>
Titles 22 and 23	1975-87 Supplements	<b>1988 Replacement Volume</b> 1989-94 Supplements <b>1995 Replacement Volume</b> 1996 Supplements

**Starting in 1997**, annual softbound volumes are published each year.

For additional information on researching legislative history, see [www.leg.state.co.us](http://www.leg.state.co.us), Services Agencies, and select Legislative Legal Services. Choose Legal Topics and click on Researching Legislative History.

**Bills Enacted Without A Safety Clause  
Explanation of Effective Date**

If a bill is enacted without a safety clause and an effective date is not indicated in the bill, the effective date is the day following the expiration of the ninety-day period after final adjournment of the General Assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state Constitution unless a referendum petition is filed against the act within such time period. If a referendum petition is filed, the act, if approved by the people, will take effect on the date of the official declaration of the vote thereon by proclamation of the Governor or the date indicated in the act if it is later than the Governor’s proclamation. The source note for a provision contained in such an act will indicate the actual date following the ninety-day period or the date set out in the act. If a referendum petition is filed, the date in the source note will be adjusted accordingly in the next publication following the election where the referendum petition is considered.

**Annotations**

Beginning in 2012, the annotations for Colorado state appellate court decisions include both public domain and regional reporter case cites. In preparing annotations to court decisions, we endeavor to include the most recent decisions. Occasionally, this may result in the inclusion of a decision before it becomes finalized and published in an official reporter. In such instances, the case cite will contain blank spaces for the volume and page number of the reporter. The volume and page number will be substituted for the blank spaces in subsequent publications of the statutes.



**TITLE 22**  
**EDUCATION**





# TITLE 22

## EDUCATION

**Cross references:** For provisions on junior colleges, contained in this title prior to 1975, see articles 71 and 72 of title 23.

**Law reviews:** For article, "Fundamentalist Christians, the Public Schools and the Religion Clauses", see 66 Den. U.L. Rev. 289 (1989).

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**22-1-101. Schools defined.** (1) A public school is a school that derives its support, in whole or in part, from moneys raised by a general state, county, or district tax.

(2) A charter school is a public school that operates pursuant to a charter contract entered into pursuant to the provisions of article 30.5 of this title. As used in this title, unless the context otherwise requires, "charter school" includes any type of charter school created pursuant to the provisions of article 30.5 of this title.

**Source:** G.L. § 2521. G.S. § 3071. R.S. 08: § 6008. C.L. § 8495. CSA: C. 146, § 289. CRS 53: § 123-21-1. C.R.S. 63: § 123-21-1. L. 2004: Entire section amended, p. 1586, § 12, effective June 3.

#### ANNOTATION

A free public school, within the contemplation of the constitution, is one to which any resident of the state, between the ages of six and 21 years, shall be admitted, and there be educated gratuitously, that is to say, at public expense, or from the public funds provided for that purpose. Sch. Dist. No. 16 v. Union High Sch. Dist. No. 1, 25 Colo. App. 510, 139 P. 1039 (1914).

The statutory definition of "public schools" is sufficiently broad to cover schools not required to be established by the constitution. Wilmore v. Annear, 100 Colo. 106, 65 P.2d 1433 (1937).

For example, the school of mines. Wilmore v. Annear, 100 Colo. 106, 65 P.2d 1433 (1937).

**22-1-102. Residence of child.** (1) Every public school shall be open for the admission of all children, between the ages of five and twenty-one years, residing in that district without the payment of tuition. The board of education shall have power to admit adults and children not residing in the district if it sees fit to do so and to fix the terms of such admission.

(2) A child shall be deemed to reside in a school district if:

(a) Both his or her parents, or the survivor of them, or the one of them with whom such child resides a majority of the time pursuant to an order of any court of competent jurisdiction resides in the school district;

(b) The legally appointed guardian of his person resides in the school district;

(c) After emancipation by his parents, or the survivor thereof, from their or his control, and he has no guardian, he lives within the school district;

(d) In the judgment of the board of education of the school district wherein the child lives, the child has been abandoned by his parents;

(e) The child has become permanently dependent for his maintenance and support on someone other than his nonresident parents, or upon any charitable organization, if the



dependent child is actually to make his home and receive his support within the school district where he desires to attend;

(f) If one of the child's parents or the guardian of his person is a public officer or employee living temporarily for the performance of his duties in a school district other than that of his residence. Unless the parents of a child are permanently separated, the residence of the husband shall be deemed to be the residence of the child, but, if the parents have permanently separated, the residence of the child shall be that of the parent with whom the child actually lives.

(g) Regardless of the residence of the parents, if any, the child adopts a dwelling place within the district with the intent to remain there indefinitely and with the intent not to return to the dwelling place from which he came, and regularly eats or sleeps there, or both, during the entire school year as defined in section 22-1-112; but the child shall be deemed not to have the requisite intent if he regularly returns to another dwelling place during summer vacations or weekends;

(h) The child is found to be homeless pursuant to the provisions of section 22-1-102.5 and the child presently seeks shelter or is located in the school district; except that a homeless child shall be deemed to reside in another school district if the child attended school in such school district at the time the child became homeless, the child remains homeless, the affected school districts find that attendance in such other school district is in the best interests of the child pursuant to section 22-33-103.5, and the child chooses to continue attendance in such other school district;

(i) The child is found to have become homeless pursuant to the provisions of section 22-1-102.5 during a period that school is not in session, the child remains homeless, and the child presently seeks shelter or is located in the school district; except that the child shall be deemed to reside in another school district if the child attended school in such school district immediately prior to the time the child became homeless, the child remains homeless, the affected school districts find that attendance in such other school district is in the best interests of the child pursuant to section 22-33-103.5, and the child chooses to continue attendance in such other school district.

(3) School districts shall follow the procedures specified in section 22-33-103.5 in determining where a homeless child shall attend school and the educational services provided to homeless children.

**Source:** G.L. § 2522. G.S. § 3072. L. 1889: p. 301, § 3. R.S. 08: § 6009. C.L. § 8496. L. 31: p. 831, § 1. CSA: C. 146, § 290. CRS 53: § 123-21-2. C.R.S. 1963: § 123-21-2. L. 67: pp. 37, 824, §§ 1, 2. L. 73: p. 1280, § 3. L. 90: (2)(h) added, p. 1040, § 1, effective April 3. L. 98: (2)(a) amended, p. 1410, § 74, effective February 1, 1999. L. 2002: (2)(h) amended and (2)(i) and (3) added, pp. 204, 205, §§ 2, 3, effective July 1. L. 2005: (1) amended, p. 69, § 2, effective March 25.

**Cross references:** For the constitutional requirement for establishment and maintenance of public schools, see § 2 of article IX of the state constitution.

#### ANNOTATION

This section implements § 2 of art. IX, Colo. Const., which requires the establishment and maintenance of public schools by the general assembly. *Simonson v. Sch. Dist. No. 14*, 127 Colo. 575, 258 P.2d 1128 (1953).

The right to attend the public schools is a civil right or privilege. *Zavilla v. Masse*, 112 Colo. 183, 147 P.2d 823 (1944).

Hence, unauthorized expulsion of pupils from school deprives them of a civil right. *Zavilla v. Masse*, 112 Colo. 183, 147 P.2d 823 (1944).

A school district bylaw does not justify a refusal to accept a transfer student from a school of another state. *Simonson v. Sch. Dist. No. 14*, 127 Colo. 575, 258 P.2d 1128 (1953).

**22-1-102.5. Definition of homeless child.** (1) The general assembly hereby finds and declares that, because of the growing number of children and families who are homeless in Colorado, there is a need to ensure that all homeless children receive a proper education. It

is the intent of the general assembly that no child shall be denied the benefits of a free education in the public schools because the child is homeless.

(2) (a) As used in this article, unless the context otherwise requires, “homeless child” means:

(I) A school-aged child who lacks a fixed, regular, and adequate nighttime residence, including but not limited to:

(A) A child who is living in a motel, hotel, or camping ground due to a lack of alternative adequate accommodations;

(B) A child who is living in an emergency or transitional shelter;

(C) A child who is abandoned in a hospital; and

(D) A child awaiting foster care placement; or

(II) A school-aged child who has a primary nighttime residence that is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for persons with mental illness;

(B) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings, including but not limited to an automobile, a park, an abandoned building, a bus or train station, or a similar setting.

(b) “Homeless child” shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(c) “Homeless child” shall include a migrant school-aged child who meets the requirements of this subsection (2).

(d) “Homeless child” shall include a school-aged child who meets the requirements of this subsection (2) who is not in the physical custody of a parent or legal guardian.

**Source:** L. 90: Entire section added, p. 1040, § 2, effective April 3. L. 2002: (2) amended, p. 205, § 4, effective July 1. L. 2006: (2)(a)(II)(A) amended, p. 1404, § 61, effective August 7.

**22-1-103. Policy of state to instruct in English - exceptions.** Instruction in the common branches of study in the public schools of this state shall be conducted principally through the medium of the English language; except that it shall be the policy of the state also to encourage the school districts of the state to develop bilingual skills and to assist pupils whose experience is largely in a language other than English to make an effective transition to English with the least possible interference in other learning activities.

**Source:** G.L. § 2523. L. 1883: p. 271, § 12. G.S. § 3073. L. 1887: p. 401, § 37. L. 01: p. 362, § 1. R.S. 08: § 6010. L. 19: p. 599, § 1. C.L. § 8497. CSA: C. 146, § 291. CRS 53: § 123-21-3. L. 59: p. 675, § 1. C.R.S. 1963: § 123-21-3. L. 69: p. 1029, § 1.

#### ANNOTATION

**Law reviews.** For note, “Rural Poverty and the Law in Southern Colorado”, see 47 Den. L.J. 82 (1970).

**22-1-104. Teaching of history, culture, and civil government.** (1) The history and civil government of the state of Colorado shall be taught in all the public schools of this state.

(2) In addition, the history and civil government of the United States, which includes the history, culture, and contributions of minorities, including, but not limited to, the American Indians, the Hispanic Americans, and the African Americans, shall be taught in all the public schools of the state.

(3) (a) Satisfactory completion of a course on the civil government of the United States



and the state of Colorado, which includes the subjects described in subsection (2) of this section, shall be a condition of high school graduation in the public schools of this state.

(b) The condition of graduation described in paragraph (a) of this subsection (3) shall apply only to students entering their first year of high school on and after August 6, 2003.

(4) (a) In an effort to increase civic participation among young people, each school district board of education shall convene a community forum on a periodic basis, but not less than once every ten years, for all interested persons to discuss adopted content standards in civics, including the subjects described in subsection (2) of this section, and in conformance with the plan to reexamine acceptable performance levels described in section 22-7-407 (2).

(b) Based upon input from this community forum, each school district board of education shall determine how the subject areas specified in this section are addressed when establishing graduation requirements.

(5) (a) In an effort to strengthen the teaching of the history of the state of Colorado and of the United States in all public schools of the state in accordance with the requirements of this section, the department of education shall assist the school districts of the state in developing and promoting programs for elementary and secondary students that engage the students in the process of discovery and interpretation of historical topics.

(b) The department of education is authorized to accept gifts, grants, and donations in furtherance of the objectives specified in paragraph (a) of this subsection (5).

(c) It is the intent of the general assembly that the objectives specified in paragraph (a) of this subsection (5) are to be funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that engage such students in the process of discovery and interpretation of historical topics assists these students in meeting state academic standards and may therefore be funded from moneys in the state education fund.

(6) (a) In an effort to strengthen the teaching of civic education in all public schools of the state in accordance with the requirements of this section, the department of education shall assist the school districts of the state in developing and promoting programs for elementary and secondary students that address the state model content standards for civics and promote best practices in civic education.

(b) It is the intent of the general assembly that the objectives specified in this subsection (6) are to be funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that address the state model content standards for civics and promote best practices in civic education assist these students in meeting state academic standards and may therefore be funded from moneys in the state education fund.

**Source:** L. 21: p. 728, § 1. C.L. § 8498. CSA: C. 146, § 292. CRS 53: § 123-21-4. C.R.S. 1963: § 123-21-4. L. 69: p. 1022, § 2. L. 98: (2) amended, p. 328, § 1, effective April 17. L. 2003: (3) and (4) added, p. 1228, § 1, effective August 6. L. 2004: (5) added, p. 875, § 2, effective May 21. L. 2005: (6) added, p. 438, § 14, effective April 29.

**Cross references:** For the legislative declaration contained in the 2004 act enacting subsection (5), see section 1 of chapter 251, Session Laws of Colorado 2004.

**22-1-104.5. Teaching of visual arts and performing arts - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) “Course” includes, but need not be limited to, a traditional class, an on-line course of study, an internship, an externship, a mentor experience, or an independent study course that culminates in an integrative or specialized performance, showcase, or exhibition.

(b) “Performing arts” means art forms that are expressed by individuals or groups that involve performance through multi-sensory experiences, which performances may include, but need not be limited to, dance, music, theater, and digital or electronic productions.

(c) “Visual arts” means art works created by individuals or groups using a variety of media and processes, which art works may include, but need not be limited to, drawing, painting, ceramic arts, sculpture, photography, graphic arts, printmaking, media arts, electronic or digital design, textiles, jewelry, glass arts, and fine woodworking.

(2) Each public school in the state is strongly encouraged to provide courses in visual arts and in performing arts, which courses shall be based on content standards for visual arts and performing arts and provided in compliance with state and federal law. School districts and public schools are strongly encouraged to explore and implement innovative delivery mechanisms for performing arts and visual arts courses, including but not limited to using on-site technology and software, on-line education, and collaboration among community colleges, other school districts or public schools, boards of cooperative services, and regional service areas.

**Source: L. 2010:** Entire section added, (HB 10-1273), ch. 233, p. 1020, § 2, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 233, Session Laws of Colorado 2010.

### **22-1-105. Commissioner of education to provide course. (Repealed)**

**Source: L. 21:** p. 728, § 2. **C.L.** § 8499. **CSA:** C. 146, § 293. **CRS 53:** § 123-21-5. **C.R.S. 1963:** § 123-21-5. **L. 84:** Entire section repealed, p. 579, § 1, effective February 17.

**22-1-106. Information as to honor and use of flag.** (1) The commissioner of education shall provide the necessary instruction and information so that all teachers in the grade and high schools in the state of Colorado may teach the pupils therein the proper respect of the flag of the United States, to honor and properly salute the flag when passing in parade, and to properly use the flag in decorating and displaying.

(2) (Deleted by amendment, L. 2004, p. 166, § 1, effective March 17, 2004.)

(3) Each school district shall provide an opportunity each school day for willing students to recite the pledge of allegiance in public elementary and secondary educational institutions. Any person not wishing to participate in the recitation of the pledge of allegiance shall be exempt from reciting the pledge of allegiance and need not participate.

**Source: L. 23:** p. 550, § 1. **CSA:** C. 146, § 294. **CRS 53:** § 123-21-6. **C.R.S. 1963:** § 123-21-6. **L. 2003:** Entire section amended, p. 2367, § 1, effective August 6. **L. 2004:** Entire section amended, p. 166, § 1, effective March 17.

### **ANNOTATION**

**Law reviews.** For note, “Legal Considerations Behind Statutes Requiring a Salute to the Flag”, see 12 Rocky Mt. L. Rev. 202 (1940).

For article, “Forced Patriot Acts”, see 81 Den. U.L. Rev. 703 (2004).

**22-1-107. Pupils to be instructed.** Upon such information and instruction being furnished, it is the duty of each teacher in such schools to see that the pupils therein receive such instruction and information.

**Source: L. 23:** p. 550, § 2. **CSA:** C. 146, § 295. **CRS 53:** § 123-21-7. **C.R.S. 1963:** § 123-21-7.

**22-1-108. Federal constitution to be taught.** In all public and private schools located within the state of Colorado, there shall be given regular courses of instruction in the constitution of the United States.



**Source:** L. 25: p. 447, § 1. CSA: C. 146, § 296. CRS 53: § 123-21-8. C.R.S. 1963: § 123-21-8.

**22-1-109. Taught at what stages.** Such instruction in the constitution of the United States shall begin not later than the opening of the junior high schools or seventh grade and shall continue in the high school course and in courses in state colleges, universities, and the educational departments of state and municipal institutions to an extent to be determined by the commissioner of education.

**Source:** L. 25: p. 447, § 2. CSA: C. 146, § 297. CRS 53: § 123-21-9. C.R.S. 1963: § 123-21-9.

**22-1-110. Effect of use of alcohol and controlled substances to be taught.** The nature of alcoholic drinks and controlled substances, as defined in section 18-18-102 (5), C.R.S., and special instruction as to their effects upon the human system in connection with the several divisions of the subject of physiology and hygiene, as to the physical, emotional, psychological, and social dangers of their use with an emphasis upon the nonuse of such substances by school-age children, and as to the illegal aspects of their use shall be included in the branches of study taught to school-age children during grades kindergarten through twelve in the public schools of the state. They shall be studied and taught, as thoroughly and in the same manner as other like required branches are taught in said schools, by the use of instructional materials and strategies designated by the board of directors of the respective school districts.

**Source:** L. 1887: p. 378, § 1. R.S. 08: § 6011. C.L. § 8500. CSA: C. 146, § 298. CRS 53: § 123-21-10. C.R.S. 1963: § 123-21-10. L. 82: Entire section amended, p. 254, § 12, effective May 3. L. 85: Entire section amended, p. 718, § 1, effective July 1. L. 2012: Entire section amended, (HB 12-1311), ch. 281, p. 1625, § 63, effective July 1.

**22-1-110.5. Education regarding human sexuality - prior written notice to parent - content standards.** (1) Except as otherwise provided in subsection (4) of this section, a school district that offers a planned curriculum that includes the discussion of or instruction concerning human sexuality shall provide to the parent or guardian of each student, prior to commencing the planned curriculum:

(a) Written notification of the ability to excuse a student, without penalty or additional assignment, from that portion of the planned curriculum that concerns human sexuality, upon the written request of the student's parent or guardian; and

(b) A detailed, substantive outline of the topics and materials to be presented in that portion of the planned curriculum that concerns human sexuality.

(2) Nothing in this section shall be construed to require an act or procedure in addition to the signature of the parent or guardian to excuse a student from that portion of the planned curriculum that concerns human sexuality.

(3) Each school district board of education is encouraged to disseminate policies or instructions to the public schools of the school district to ensure the implementation of the provisions of this section in a manner that will not draw undue attention to, nor cause undue embarrassment for, students excused from that portion of the planned curriculum that concerns human sexuality.

(4) The provisions of this section shall not apply to a local comprehensive health education program implemented by a school district or board of cooperative services pursuant to article 25 of this title.

(5) Except as described in subsection (9) of this section, a school district, charter school, or institute charter school that offers a planned curriculum that includes instruction concerning human sexuality shall, in offering such a curriculum, maintain content standards for the curriculum that are based on scientific research, which content standards shall:

(a) Encourage parental involvement and family communication;

(b) Emphasize abstinence and teach that sexual abstinence is the only certain way and the most effective way to avoid pregnancy and sexually transmitted diseases and infections, including but not limited to instruction regarding HIV/AIDS, hepatitis C, the link between human papillomavirus and cancer, and the availability of the human papillomavirus vaccine;

(c) Include instruction to help students develop skills for making responsible and healthy decisions about human sexuality, personal power, boundary setting, and resisting peer pressure, including how to avoid:

(I) Unwanted verbal, physical, and sexual advances;

(II) Making unwanted verbal, physical, and sexual advances; and

(III) Making assumptions about a person's supposed sexual intentions based on that person's appearance;

(d) Include discussion of how alcohol and drug use impairs responsible and healthy decision-making;

(e) Be age-appropriate, culturally sensitive, and medically accurate according to published authorities upon which medical professionals generally rely;

(f) Provide instruction about the health benefits and potential side effects of using contraceptives and barrier methods to prevent pregnancy, including instruction regarding emergency contraception and the availability of contraceptive methods; and

(g) For school districts that have established a character education program pursuant to section 22-29-103, promote the guidelines of behavior established in the character education program.

(6) Nothing in subsection (5) of this section shall be interpreted to prohibit discussion of health, moral, ethical, or religious values as they pertain to human sexuality, healthy relationships, or family formation.

(7) School districts, charter schools, and institute charter schools are encouraged to involve teachers, school nurses, parents, and community members in the development of the content standards required by subsection (5) of this section and to integrate available community resources into programs providing instruction regarding human sexuality.

(8) As used in this section, unless the context otherwise requires, "sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or genital skin-to-skin contact.

(9) A school district, charter school, or institute charter school that is receiving, on July 1, 2007, direct or indirect funding from the federal government for the provision of an abstinence education program pursuant to 42 U.S.C. sec. 710 shall not be required to adopt content standards for the provision of such instruction as described in subsection (5) of this section in any year that the school district, charter school, or institute charter school receives such funding.

**Source:** L. 2004: Entire section added, p. 1373, § 1, effective July 1. L. 2007: (5) to (9) added, p. 828, § 2, effective July 1.

**Cross references:** For the legislative declaration contained in the 2007 act enacting subsections (5) to (9), see section 1 of chapter 212, Session Laws of Colorado 2007.

## **22-1-111. Failure to teach temperance. (Repealed)**

**Source:** L. 1887: p. 379, § 2. R.S. 08: § 6012. C.L. § 8501. CSA: C. 146, § 299. CRS 53: § 123-21-11. C.R.S. 1963: § 123-21-10. L. 82: Entire section amended, p. 254, § 11, effective May 3. L. 85: Entire section repealed, p. 718, § 2, effective July 1.

**22-1-112. School year - national holidays.** The school year shall begin on the first day of July and end on the thirtieth day of June. The term "national holidays" in this title shall be construed to mean Thanksgiving day, Christmas day, New Year's day, the third Monday in January, observed as the birthday of Dr. Martin Luther King, Jr., Washington-Lincoln day, Memorial day, Labor day, Independence day, and Veterans' day.



**Source:** G.L. § 2524. G.S. § 3074. L. 1887: p. 401, § 38. R.S. 08: § 6013. C.L. § 8502. L. 25: p. 455, § 1. CSA: C. 146, § 300. CRS 53: § 123-21-12. L. 61: p. 681, § 1. C.R.S. 1963: § 123-21-12. L. 84: Entire section amended, p. 670, § 5, effective January 1, 1986.

### **22-1-113. School census - oath of parent. (Repealed)**

**Source:** L. 19: p. 575, § 1. L. 21: p. 696, § 1. C.L. § 8503. CSA: C. 146, § 301. CRS 53: § 123-21-13. C.R.S. 1963: § 123-21-13. L. 2006: Entire section repealed, p. 594, § 2, effective August 7.

**22-1-114. Statements from private schools.** Whenever requested by the board of education of the school district in which a private school is located, if not more often than once per month, the person or corporation in charge and control of any school other than a public school shall certify in writing, and, if so requested, upon forms or blanks furnished by the said school district for that purpose, a statement containing the name, age, place of residence, and number of days of attendance at school during the preceding month or since the preceding report of all children of school age who then are or since the preceding report have been attending any such school.

**Source:** L. 21: p. 697, § 2. C.L. § 8504. CSA: C. 146, § 302. CRS 53: § 123-21-14. C.R.S. 1963: § 123-21-14.

**22-1-115. School census - school age.** A school census is a census embracing all persons between the ages of five and twenty-one years. School age is any age over five and under twenty-one years; but any child attaining school age during the school year may be admitted to school subject to the requirements for admission fixed by the school board of the district in which he or she applies for enrollment.

**Source:** G.L. § 2525. G.S. § 3075. R.S. 08: § 6014. C.L. § 8505. CSA: C. 146, § 303. CRS 53: § 123-21-15. L. 61: p. 682, § 1. C.R.S. 1963: § 123-21-15. L. 2005: Entire section amended, p. 69, § 3, effective March 25.

**22-1-116. School children - sight and hearing tests.** The sight and hearing of all children in the kindergarten, first, second, third, fifth, seventh, and ninth grades, or children in comparable age groups referred for testing, shall be tested during the school year by the teacher, principal, or other qualified person authorized by the school district. Each school in the district shall make a record of all sight and hearing tests given during the school year and record the individual results of each test on each child's records. The parents or guardian shall be informed when a deficiency is found. The provisions of this section shall not apply to any child whose parent or guardian objects on religious or personal grounds.

**Source:** L. 09: p. 490, § 1. C.L. § 8506. CSA: C. 146, § 304. CRS 53: § 123-21-16. C.R.S. 1963: § 123-21-16. L. 81: Entire section amended, p. 1052, § 1, effective May 18.

### **ANNOTATION**

**This section is not intended to provide a complete system of health inspection for** schools. Hallett v. Post Printing & Publ'g Co., 68 Colo. 573, 192 P. 658 (1920).

**22-1-117. Secret fraternities forbidden.** It is unlawful for any pupil who is registered in and attending any high school, district, primary, or graded school which is partially or wholly maintained by public funds to join or become a member of any secret fraternity, sorority, or society wholly or partially formed from the membership of pupils attending any

such schools or to belong to or to take part in the organization or formation of any fraternity, sorority, or society, except such societies or associations as shall be sanctioned by the board of directors of the school districts wherein such schools are maintained.

**Source:** L. 13: p. 575, § 1. C.L. § 8509. CSA: C. 146, § 306. CRS 53: § 123-21-18. C.R.S. 1963: § 123-21-18.

**22-1-118. School board to enforce.** The boards of directors of all school districts shall enforce the provisions of section 22-1-117, and shall have full power to make, adopt, and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and for the enforcing of all the provisions of section 22-1-117.

**Source:** L. 13: p. 575, § 2. C.L. § 8510. CSA: C. 146, § 307. CRS 53: § 123-21-19. C.R.S. 1963: § 123-21-19.

**22-1-119. Students - dispensing of drugs to - liability.** Any school employee who dispenses any drug, as such term is defined in section 12-42.5-102 (13), C.R.S., to a student in accordance with written instructions from a parent or legal guardian shall not be liable for damages in any civil action or subject to prosecution in any criminal proceedings for an adverse drug reaction suffered by the student as a result of dispensing such drug.

**Source:** L. 81: Entire section added, p. 706, § 25, effective July 1. L. 2012: Entire section amended, (HB 12-1311), ch. 281, p. 1625, § 64, effective July 1.

**22-1-119.3. Policy for student possession and administration of prescription medication - rules.** (1) A school district board of education may adopt and implement a policy whereby, except as described in subsection (3) of this section, a student enrolled in a school of the school district may possess and self-administer on school grounds, upon a school bus, or at any school-sponsored event any medication that is prescribed by a licensed health care practitioner to be used by the student.

(2) (a) If a school district board of education adopts and implements a policy described by subsection (1) of this section, a parent or legal guardian of a student who is enrolled in a school of the school district and for whom medication is prescribed by a licensed health care practitioner shall notify the school's administration of the student's medical needs and of the fact that the student may be in possession of his or her prescribed medications as described in subsection (1) of this section. The notification, when appropriate, shall include the treatment plan that has been devised for the student by a licensed health care practitioner.

(b) If a school's administration receives notice from a student's parent or legal guardian that the student may be in possession of his or her prescribed medications, the school's administration shall ensure that such notice is provided to the student's teachers and the school nurse or other person who is designated to provide health services to students at the school.

(c) Nothing in this section shall be construed to limit the ability of a public school to require a parent or legal guardian of a student who has medication prescribed for a life-threatening condition to provide to the school a sufficient supply of the medication to be stored at the school to be administered to the student in the event of a health emergency.

(3) (a) A policy adopted by a school district board of education pursuant to subsection (1) of this section shall include, but need not be limited to:

(I) A process by which a school may restrict a student from possessing and self-administering on school grounds, on a school bus, or at a school-sponsored event a medication that is prescribed by a licensed health care practitioner to be used by the student. The process shall require the school administration to make a determination as to whether a student's possession or self-administration of the medication poses a significant risk of harm to the student or to other students.

(II) A requirement that if a student has medication prescribed for a life-threatening condition, a sufficient supply of the medication is provided to the school by the student's parent or legal guardian, stored safely at the school, and kept readily available to be administered to the student in a timely fashion in the event of a health emergency.

(b) A student who possesses a prescribed medication on school grounds, upon a school bus, or at a school-sponsored event in accordance with a policy adopted by a school district pursuant to this section may possess only enough of his or her prescribed medication to render a sufficient dosage to the student to adequately treat the student's condition for a single day or for the duration of the event, whichever is appropriate; except that this provision shall not apply to a student who requires and possesses an insulin pump or other medical device that delivers dosages of prescribed medication to the student over a period of time that exceeds a single day or the duration of the event.

(c) A student shall not possess or self-administer medical marijuana on school grounds, upon a school bus, or at any school-sponsored event.

(4) The state board of education may promulgate rules for the implementation of this section.

(5) A school district board of education that adopts a policy pursuant to subsection (1) of this section shall be exempt from rules promulgated by the state board of education pursuant to the "Colorado Schoolchildren's Asthma, Food Allergy, and Anaphylaxis Health Management Act", section 22-1-119.5.

**Source: L. 2011:** Entire section added, (SB 11-012), ch. 62, p. 161, § 2, effective March 25.

**22-1-119.5. Asthma, food allergy, and anaphylaxis health management - self-administered medication.** (1) This section shall be known and may be cited as the "Colorado Schoolchildren's Asthma, Food Allergy, and Anaphylaxis Health Management Act".

(2) (a) A student with asthma, a food allergy, other severe allergies, or a related, life-threatening condition may possess and self-administer medication to treat the student's asthma, food or other allergy, anaphylaxis, or other related, life-threatening condition if the student has a treatment plan approved pursuant to this subsection (2) or the student's school district board of education has adopted a policy for student possession and administration of prescription medication pursuant to section 22-1-119.3.

(b) A public school shall, and a nonpublic school is encouraged to, approve a treatment plan for a student enrolled in the school to possess and self-administer medication for asthma, a food allergy, or anaphylaxis if all of the following conditions are met:

(I) A health care practitioner has prescribed medication for use by the student during school hours, at school-sponsored activities, and while in transit to or from school or school-sponsored activities and has instructed the student in the correct and responsible use of the medication.

(II) The student demonstrates to the health care practitioner or the health care practitioner's designee and the school nurse or a school administrator the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed.

(III) The school nurse or a school administrator collaborates with the student's health care practitioner to formulate a written treatment plan for managing asthma, food allergy, or anaphylaxis episodes of the student and for medication use by the student during school hours, at school-sponsored activities, and while in transit to or from school or school-sponsored activities.

(IV) The student's parent or legal guardian completes and submits to the public or nonpublic school the documentation required by rule of the state board of education, including but not limited to:

(A) A written medical authorization that includes the signature of the health care practitioner for the medication prescribed; the name, purpose, prescribed dosage, frequency, and length of time between dosages of the medications to be self-administered; and



confirmation from the health care practitioner that the student has been instructed and is capable of self-administration of the prescribed medications;

(B) A written statement from the student's parent or legal guardian releasing the school, school district, any associated entity, and employees and volunteers of the school, school district, and associated entity from liability, except in cases of willful or wanton conduct or disregard of the criteria of the treatment plan; and

(C) A written contract between the school nurse or a school administrator, the student, and the student's parent or legal guardian assigning levels of responsibility to the parent or legal guardian, student, and school employees.

(c) A treatment plan shall be effective only for the school year in which it is approved. The public school shall approve a new treatment plan for each school year so long as the plan meets the conditions specified in paragraph (b) of this subsection (2). The parent or legal guardian shall submit a new treatment plan annually or more often if changes occur to the student's health or prescribed treatment.

(3) A student with a treatment plan approved pursuant to subsection (2) of this section or whose school district board of education has adopted a policy for student possession and administration of prescription medication pursuant to section 22-1-119.3 may possess and self-administer his or her medication while in school, while at school-sponsored activities, and while in transit to or from school or school-sponsored activities.

(4) With the approval of the parent or legal guardian of a student with a treatment plan approved pursuant to subsection (2) of this section, a school may maintain additional asthma, food or other allergy, or anaphylaxis medication to be kept at the school in a location to which the student has immediate access in the event of an asthma, food or other allergy, or anaphylaxis emergency.

(5) Immediately after using an epinephrine auto-injector during school hours, a student shall report to the school nurse, to the designee of the school nurse, or to some adult at the school to enable the school nurse, nurse's designee, or other adult to provide the appropriate follow-up care, which shall include making a 911 emergency call.

(6) If the provisions of this section are met, a school, school district, school district director, or school or school district employee or a volunteer not otherwise provided for under section 13-21-108, C.R.S., shall not be liable in a suit for damages as a result of an act or omission related to a student's own use of the student's epinephrine auto-injector or any other medication contained in an approved treatment plan unless the damages were caused by willful or wanton conduct or disregard of the criteria of the treatment plan.

(7) Nothing in this section shall be interpreted to create a cause of action or increase or diminish the liability of any person.

(8) The state board of education, with assistance from the department of public health and environment, shall promulgate rules for treatment plans for the self-administration of medications pursuant to this section.

(9) The department of public health and environment is authorized to audit school records for the determination of asthma and severe allergy rates within the schools and to determine the proportion of those students with asthma and severe allergies in the schools that have treatment plans allowing for self-administration of asthma and severe allergy medications. The audit shall define the extent of asthma and severe allergies among students and determine the effect of this section on the well-being of children with asthma and severe allergies in schools. The audit shall be conducted in conformance with the requirements of the "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

**Source:** **L. 2005:** Entire section added, p. 257, § 2, effective April 14. **L. 2009:** (1), (2)(a), (2)(b), and (4) amended, (SB 09-226), ch. 245, p. 1106, § 7, effective August 5. **L. 2011:** (2)(a) and (3) amended, (SB 11-012), ch. 62, p. 161, § 1, effective March 25.

**Cross references:** For the legislative declaration contained in the 2005 act enacting this section, see section 1 of chapter 71, Session Laws of Colorado 2005. For the legislative declaration contained in the 2009 act amending subsections (1), (2)(a), (2)(b), and (4), see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-1-120. Rights of free expression for public school students.** (1) The general assembly declares that students of the public schools shall have the right to exercise freedom of speech and of the press, and no expression contained in a student publication, whether or not such publication is school-sponsored, shall be subject to prior restraint except for the types of expression described in subsection (3) of this section. This section shall not prevent the advisor from encouraging expression which is consistent with high standards of English and journalism.

(2) If a publication written substantially by students is made generally available throughout a public school, it shall be a public forum for students of such school.

(3) Nothing in this section shall be interpreted to authorize the publication or distribution in any media by students of the following:

- (a) Expression that is obscene;
- (b) Expression that is libelous, slanderous, or defamatory under state law;
- (c) Expression that is false as to any person who is not a public figure or involved in a matter of public concern; or
- (d) Expression that creates a clear and present danger of the commission of unlawful acts, the violation of lawful school regulations, or the material and substantial disruption of the orderly operation of the school or that violates the rights of others to privacy or that threatens violence to property or persons.

(4) The board of education of each school district shall adopt a written publications code, which shall be consistent with the terms of this section, and shall include reasonable provisions for the time, place, and manner of conducting free expression within the school district's jurisdiction. The publications code shall be distributed, posted, or otherwise made available to all students and teachers at the beginning of each school year.

(5) (a) Student editors of school-sponsored student publications shall be responsible for determining the news, opinion, and advertising content of their publications subject to the limitations of this section. It shall be the responsibility of the publications advisor of school-sponsored student publications within each school to supervise the production of such publications and to teach and encourage free and responsible expression and professional standards for English and journalism.

(b) For the purposes of this section, "publications advisor" means a person whose duties include the supervision of school-sponsored student publications.

(6) If participation in a school-sponsored publication is part of a school class or activity for which grades or school credits are given, the provisions of this section shall not be interpreted to interfere with the authority of the publications advisor for such school-sponsored publication to establish or limit writing assignments for the students working with the publication and to otherwise direct and control the learning experience that the publication is intended to provide.

(7) No expression made by students in the exercise of freedom of speech or freedom of the press shall be deemed to be an expression of school policy, and no school district or employee, or parent, or legal guardian, or official of such school district shall be held liable in any civil or criminal action for any expression made or published by students.

(8) Nothing in this section shall be construed to limit the promulgation or enforcement of lawful school regulations designed to control gangs. For the purposes of this section, the definition of "gang" shall be the definition found in section 19-1-103 (52), C.R.S.

**Source:** L. 90: Entire section added, p. 1042, § 1, effective June 7. L. 98: (8) amended, p. 823, § 30, effective August 5. L. 2000: (3) amended, p. 1971, § 13, effective June 2. L. 2006: (4) amended, p. 595, § 3, effective August 7.

#### ANNOTATION

**Subsection (1) applies only to written publication, such as school newspapers.** The entire context of the statute makes clear that "publication" means written media, such as a student

newspaper, since there are numerous provisions pertaining to written speech and journalism but not to oral speech. *Corder v. Lewis Palmer Sch. Dist. No. 38*, 568 F. Supp. 2d 1237 (D. Colo.



2008), aff'd, 566 F.3d 1219 (10th Cir.), cert. denied, \_\_\_ U.S. \_\_\_, 130 S. Ct. 742, 175 L. Ed. 2d 515 (2009).

By its plain terms, therefore, subsection (1) does not apply to valedictorian speech given at high school graduation. *Corder v. Lewis Palmer Sch. Dist. No. 38*, 568 F. Supp. 2d 1237 (D. Colo. 2008), aff'd, 566 F.3d 1219 (10th Cir.), cert. denied, \_\_\_ U.S. \_\_\_, 130 S. Ct. 742, 175 L. Ed. 2d 515 (2009).

**Subsection (1) cannot be construed to prohibit a school from regulating speech that could violate the establishment clause of the first amendment.** *Corder v. Lewis Palmer Sch. Dist. No. 38*, 568 F. Supp. 2d 1237 (D. Colo. 2008), aff'd, 566 F.3d 1219 (10th Cir.), cert. denied, \_\_\_ U.S. \_\_\_, 130 S. Ct. 742, 175 L. Ed. 2d 515 (2009).

**22-1-121. Nonpublic schools - employment of personnel - notification by department of education.** (1) Prior to the employment of any person by a nonpublic school in this state, the governing board of such school may make an inquiry concerning such person to the department of education for the purpose of determining:

(a) Whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children;

(b) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information provided to the department by a school district pursuant to section 22-32-109.7 and confirmed by the department pursuant to the provisions of section 22-2-119 (1) (b);

(c) If a holder of a license or authorization pursuant to the provisions of article 60.5 of this title, whether such person's certificate, letter of authorization, authorization, or license has ever been annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2) (b) as said section existed prior to July 1, 1999, or pursuant to article 60.5 of this title following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(1.5) During the time that a person is employed by a nonpublic school in this state, the governing board of such school may make an inquiry concerning such person to the department of education for the purposes described in subsection (1) of this section.

(1.7) (a) To facilitate the inquiry permitted by subsection (1) or subsection (1.5) of this section, the governing board of a participating nonpublic school shall require an applicant or employee to submit to the governing board of the school a complete set of his or her fingerprints taken by a qualified law enforcement agency or an authorized school employee. The governing board shall forward the set of fingerprints together with a check to cover the direct and indirect costs of conducting a fingerprint-based criminal history record check of the applicant or employee to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The department shall be the authorized agency to receive and disseminate information regarding the result of any national criminal history record check. Any such national check shall be handled in accordance with Pub.L. 92-544, as amended. The department shall notify the governing board whether a fingerprint-based criminal history record check has identified any conviction, plea of nolo contendere, deferred sentence, or deferred prosecution described in subsection (1) of this section.

(b) All costs arising from a fingerprint-based criminal history record check performed by the Colorado bureau of investigation and the federal bureau of investigation pursuant to the provisions of this section shall be borne by the nonpublic school. Such costs may be passed on to the employee or the prospective employee.

(c) (Deleted by amendment, L. 2006, p. 926, § 6, effective July 1, 2006.)

(2) Any information received by the governing board of a nonpublic school pursuant to subsection (1) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsection (1) or who makes an unauthorized

request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source:** **L. 93:** Entire section added, p. 611, § 2, effective April 30; (1)(b) amended, p. 634, § 3, effective July 1. **L. 99:** (1)(a) amended and (1.5) and (1.7) added, p. 1101, § 2, effective July 1. **L. 2000:** (1)(c) amended, p. 1848, § 38, effective August 2. **L. 2002:** (1.7) amended, p. 974, § 8, effective June 1. **L. 2003:** (2) amended, p. 1408, § 14, effective January 1, 2004. **L. 2006:** (1.7)(a) and (1.7)(c) amended, p. 926, § 6, effective July 1.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsection (2), see section 1 of chapter 196, Session Laws of Colorado 2003.

**22-1-122. Transportation token program - legislative declaration - eligibility - fund.** (1) (a) It is the intent of the general assembly in enacting this section to improve opportunities for students to gain the knowledge and skills necessary for a successful experience in postsecondary education or as members of the work force. The general assembly finds that a student should not be compelled by the lack of transportation to remain in a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210. It is therefore in the best interests of the citizens of the state to make transportation tokens available to eligible students to enable them to attend a public school that is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and that the school district has identified as an available choice.

(b) It is further the intent of the general assembly that the department of education pursue all other sources of moneys for the transportation token program created in this section, including but not limited to federal grants.

(2) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(b) "Eligible student" means a student:

(I) Who is enrolled in a public school in any of the first through eighth grades;

(II) Who is eligible for free or reduced-cost lunch pursuant to the "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(III) (A) Who is enrolled in a neighborhood school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; or

(B) Who has been in attendance elsewhere in the public school system or who is entering first grade and whose parent or legal guardian has been notified that the student has been assigned to a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; and

(IV) Who, while enrolled in the neighborhood school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210, met the attendance policies of the school district of the neighborhood school, adopted pursuant to section 22-33-104 (4).

(c) "Neighborhood school" means a public school to which the school district provides transportation for the student or which is located so close to the residence of the student that the school district does not provide transportation for the student.

(c.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(d) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.



(3) (a) There is hereby created in the department the transportation token program, referred to in this section as the “program”, to assist a parent or legal guardian of an eligible student in transporting the student to a public school, other than a neighborhood public school, which other school is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and which other school has been identified by the school district as an available choice. Pursuant to rules adopted by the state board, the parent or legal guardian of an eligible student may apply to the program to receive a transportation token for use in transporting the student to the nearest of said public schools that is not a neighborhood school.

(b) An eligible student shall continue receiving transportation tokens pursuant to this section so long as he or she continues to meet the requirements specified for an eligible student in paragraph (b) of subsection (2) of this section; except that, after the first year in which an eligible student receives transportation tokens, the requirement specified in subparagraph (III) of paragraph (b) of subsection (2) of this section shall no longer apply. An eligible student shall no longer receive transportation tokens pursuant to this section if he or she moves to another residence, the neighborhood school for which was required to implement a performance or improvement plan pursuant to section 22-11-403 or 22-11-404, respectively, during the school year preceding the year in which the student initially enrolls; except that the eligible student may receive transportation tokens in school years following initial enrollment in the new neighborhood school if he or she again meets the requirements specified for an eligible student in paragraph (b) of subsection (2) of this section.

(4) The state board shall determine a monetary value for the transportation token issued at each public school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210. The monetary value may cover a portion of the transportation costs. The transportation token may take the form of, but is not limited to, subsidized tokens, passes, or fares for buses, taxis, or other forms of transportation approved by the state board. In determining the value of a transportation token, the state board shall take into account the various transportation options available to the eligible student and the distance to be traveled by the eligible student to attend a public school outside of the student’s neighborhood. The transportation token used by an eligible student shall be redeemable by a transportation provider through the department.

(5) The state board shall adopt rules governing the program, including but not limited to:

(a) A procedure for parents and legal guardians of eligible students to apply to the department for transportation tokens;

(b) A procedure to establish the value of the transportation tokens issued at each public school; and

(c) A procedure for transportation providers to receive reimbursement for transportation tokens received in providing transportation to eligible students.

(6) (a) The department shall ensure that for each eligible student the school district of the neighborhood school shall:

(I) Timely notify the eligible student’s parent or legal guardian of all options available pursuant to this section as soon as the neighborhood school is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; and

(II) Offer each eligible student’s parent or legal guardian an opportunity to enroll the student in another public school within the district that is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and that the school district has identified as an available choice.

(b) So long as an eligible student is enrolled before the pupil enrollment count day, the parent or legal guardian of an eligible student may choose to enroll the eligible student in and transport the eligible student to a public school in another school district that has available space. Such school district shall enroll the eligible student and include the eligible student in the district’s pupil enrollment for purposes of the “Public School Finance Act of 1994”.

(c) The public school in which an eligible student enrolls shall certify to the state board the attendance of the eligible student.

(7) There is hereby created in the state treasury the transportation token fund, referred to in this subsection (7) as the “fund”. The fund shall consist of all moneys appropriated to the fund by the general assembly and all other gifts, grants, donations, and other moneys obtained by the department to provide transportation assistance to parents and legal guardians of eligible students. Moneys in the fund shall be annually appropriated by the general assembly to the department to provide transportation assistance to parents and legal guardians of eligible students pursuant to this section. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or transferred to the general fund. However, in accordance with section 24-36-114, C.R.S., any interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund.

**Source:** **L. 2000:** Entire section added, p. 357, § 9, effective April 10. **L. 2001:** (1)(a), (2)(b)(III), (2)(b)(IV), (3)(b), (4), and (6)(a)(I) amended, p. 1490, § 12, effective June 8. **L. 2009:** (1)(a), (2)(b)(III), (2)(b)(IV), (3), (4), and (6)(a) amended, (SB 09-163), ch. 293, p. 1526, § 6, effective May 21. **L. 2012:** (2)(c.5) added and (6)(b) amended, (HB 12-1090), ch. 44, p. 149, § 1, effective March 22.

**Cross references:** For the “Public School Finance Act of 1994”, see article 54 of this title.

**22-1-123. Protection of student data - parental or legal guardian consent for surveys.** (1) As used in this section, “education records” and “directory information” shall have the same meanings as those terms are defined in the federal “Family Educational Rights and Privacy Act of 1974”, as amended, 20 U.S.C. sec. 1232g and “education records” shall include an individualized education program.

(2) A school district shall comply with the provisions of 20 U.S.C. sec. 1232g (a) and 34 CFR 99 if a parent or legal guardian of a student either requests the education records of the student or requests an amendment or other change to the education records after reviewing them.

(3) A school district shall not release the education records of a student to any person, agency, or organization without the prior written consent of the parent or legal guardian of the student except as otherwise permitted in 20 U.S.C. sec. 1232g (b).

(4) A school district shall not release directory information to any person, agency, or organization without first complying with the provisions of 20 U.S.C. sec. 1232g (a) (5) (B) related to allowing a parent or legal guardian to prohibit such release without prior consent.

(5) (a) A school district shall comply with 20 U.S.C. sec. 1232h. A school or school district employee who requires participation in a survey, assessment, analysis, or evaluation in a public school’s curriculum or other official school activity shall obtain the written consent of a student’s parent or legal guardian before giving the student any survey, assessment, analysis, or evaluation intended to reveal information, whether the information is personally identifiable or not, concerning the student or the student’s parent’s or legal guardian’s:

- (I) Political affiliations;
- (II) Mental and psychological conditions potentially embarrassing to the student or the student’s family;
- (III) Sexual behavior and attitudes;
- (IV) Illegal, anti-social, self-incriminating, or demeaning behavior;
- (V) Critical appraisals of individuals with whom a student has close family relationships;
- (VI) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and members of the clergy;
- (VII) Income, except as required by law;
- (VIII) Social security number; or
- (IX) Religious practices, affiliations, or beliefs.



(b) The requirement of written consent pursuant to this subsection (5) applies throughout a public school's curriculum and other school activities; except that the requirement of written consent does not apply to a student's participation in an assessment administered pursuant to section 22-7-407 or 22-7-409 or part 10 of article 7 of this title. In implementing this subsection (5), the school or school district and employees shall ensure that their first responsibility is to students and their parents and shall allow only minimal use of students' academic time by institutions, agencies, or organizations outside the school or school district to gather information from students.

(c) Written consent pursuant to this subsection (5) is valid only if the school district has given a parent or legal guardian written notice of the survey, assessment, analysis, or evaluation, has made a copy of the document available for viewing at convenient locations and times, and has given the parent or legal guardian at least two weeks, after receipt of the written notice, to obtain written information concerning:

(I) Records or information that may be examined and requested in the survey, analysis, or evaluation;

(II) The means by which the records or information shall be examined reviewed, or disseminated;

(III) The means by which the information is to be obtained;

(IV) The purposes for which the records or information is needed;

(V) The entities or persons, regardless of affiliation, who will have access to the information; and

(VI) A method by which a parent or legal guardian of a student can grant or deny permission to access or examine the records or information.

(d) Nothing in this subsection (5) shall be construed to prevent a public school employee from reporting known or suspected child abuse or neglect pursuant to section 19-3-304, C.R.S.

(e) Nothing in this subsection (5) shall be construed to prevent a student who is working under the supervision of a journalism teacher or sponsor from preparing or participating in a survey, analysis, or evaluation without obtaining the written consent of such student's parent or legal guardian as long as such participation without parental consent is not otherwise prohibited by federal law.

(f) Nothing in this subsection (5) shall be construed to limit the ability of a health professional who is acting as an agent of the school district from evaluating an individual child.

(g) Nothing in this subsection (5) limits the ability of a school district to administer a suicide assessment or threat assessment.

(6) If a school district sends a form to a parent or legal guardian requesting written consent for the school district to release personally identifiable information concerning that parent's or legal guardian's child in education records other than directory information, such consent shall be valid under this section only if the form contains notice to the parent or legal guardian regarding:

(a) The specific records to be released;

(b) The specific reasons for such release;

(c) The specific identity of any person, agency, or organization requesting such information and the intended uses of the information;

(d) The method or manner by which the records will be released; and

(e) The right to review or to receive a copy of the relevant records to be released.

(7) (a) Consent for release of information pursuant to this section shall be valid only for the specific instance for which it was given.

(b) A general consent for a student to participate in any course or part of a course, in a school activity, in any special education program, or in any other school program does not constitute written consent pursuant to this section.

(c) Consent forms obtained pursuant to this section shall be retained by the school district.

(8) Any right accorded to a parent or legal guardian pursuant to this section shall transfer to the relevant student when that student attains the age of eighteen years.



(9) A school district shall, at the beginning of each academic year, provide to a parent or legal guardian of each student in the school district written notice of the rights contained in this section.

(10) The provisions of this section shall apply to any public school in the state, regardless of whether the public school receives any federal funds.

(11) The state board of education shall adopt such rules as may be necessary to implement this section.

(12) If an individual licensed, certified, endorsed, or authorized by the state board is found by the state board to have knowingly and intentionally violated the provisions of this section, the department of education may suspend or revoke such individual's license, master certificate, endorsement, or authorization for a period not less than ninety days.

(13) Nothing in this section shall be construed to prevent a school or a school district from releasing education records to the extent authorized by 20 U.S.C. sec. 1232g (b) and any other applicable federal law.

**Source:** L. 2000: Entire section added, p. 1096, § 1, effective August 2. L. 2003: (1) amended, p. 1806, § 1, effective August 6. L. 2004: (12) amended, p. 1283, § 11, effective May 28. L. 2012: (5)(a), (5)(b), and (5)(c) amended and (5)(g) added, (SB 12-036), ch. 273, p. 1443, § 1, effective August 8.

#### ANNOTATION

**Exception under Family Education and Privacy Rights Act (FEPR) to unauthorized release of school records when a "subpoena is issued for law enforcement purposes"** does not apply to defendant's subpoena duces tecum request. *People v. Wittrein*, 198 P.3d 1237 (Colo. App. 2008), rev'd on other grounds, 221 P.3d 1076 (Colo. 2009).

**However, the court may grant defendant's subpoena duces tecum request pursuant to FERPA's exception for a "judicial order or lawful subpoena"** if the parents and student are notified. When determining whether to grant a defendant's subpoena request for school records, the court must weigh the nature of the

information sought, the relationship between the information sought and the dispute, and the harm that may result from disclosure. If the court determines the defendant's need outweighs any privacy interest, then it should review the records in camera. Then, in its discretion, the trial court can order disclosure of the records. *People v. Wittrein*, 221 P.3d 1076 (Colo. 2009).

**A defendant may obtain school records of a student who is a witness in a criminal case without the consent of the student or the student's parents upon a proper showing of need.** *People v. Bachofer*, 192 P.3d 454 (Colo. App. 2008).

**22-1-124. Sex offender information.** At the beginning of each school year, each public school in the state shall provide to the parents of children attending the school a statement identifying where and the procedures by which members of the community may obtain the law enforcement agency information collected pursuant to section 16-22-110 (6), C.R.S., concerning registered sex offenders. In addition, a school may post the statement on a web site.

**Source:** L. 2003: Entire section added, p. 632, § 1, effective March 18.

**22-1-125. Automated external defibrillators in public schools.** (1) The general assembly hereby declares that it is the intent of the general assembly to encourage school districts to acquire and maintain automated external defibrillators on public school grounds. The general assembly finds that it is in the best interest of students, staff, and visitors to a public school to ensure that automated external defibrillators are available in public schools for use in emergency situations.

(2) As used in this section, unless the context otherwise requires, "automated external defibrillator" shall have the same definition as provided in section 13-21-108.1 (2) (a), C.R.S.

(3) (a) Each school district is encouraged to acquire an automated external defibrillator

for placement in each public school of the school district and in each athletic facility maintained by the school district at a location separate from a public school.

(b) A school district shall accept a donation of an automated external defibrillator that meets standards established by the federal food and drug administration and is in compliance with the manufacturer's maintenance schedule. A school district shall also accept gifts, grants, and donations, including in-kind donations, designated for obtaining an automated external defibrillator, and for inspection, maintenance, and training in the use of an automated external defibrillator as required in subsection (5) of this section.

(c) Any automated external defibrillator acquired by a school district shall be appropriate for use on children and adults.

(4) Use of an automated external defibrillator donated to or purchased by a school district is limited to school property and school events.

(5) To ensure public health and safety, a school district that acquires an automated external defibrillator shall meet the requirements set forth in section 13-21-108.1 (3), C.R.S., and shall reference the requirements of that section in the school district's safety, readiness, and incident management plan pursuant to section 22-32-109.1 (4) (d).

(6) Pursuant to section 13-21-108.1 (4), C.R.S., a person or entity whose primary duties do not include the provision of health care and who, in good faith and without compensation, renders emergency care or treatment by the use of an automated external defibrillator shall not be liable for any civil damages for acts or omissions made in good faith as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment, unless the acts or omissions are grossly negligent or willful and wanton.

(7) The requirements of subsection (5) of this section shall not apply to an individual using an automated external defibrillator during a medical emergency if that individual is acting as a good samaritan under section 13-21-108, C.R.S.

**Source:** **L. 2005:** Entire section added, p. 383, § 1, effective August 8. **L. 2008:** (5) amended, p. 804, § 5, effective May 14. **L. 2009:** (5) amended, (SB 09-010), ch. 52, p. 187, § 2, effective March 25.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (5), see section 1 of chapter 215, Session Laws of Colorado 2008.

**22-1-126. Safe2tell program.** As described in section 16-15.8-103, C.R.S., there is established the safe2tell program with the primary purpose of providing students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials.

**Source:** **L. 2007:** Entire section added, p. 685, § 2, effective May 3. **L. 2012:** Entire section amended, (SB 12-079), ch. 58, p. 213, § 5, effective March 24.

**22-1-127. Incentives for school enrollment or attendance - prohibited - exceptions - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Item of value" means an item, cash, or an instrument or device that can be used to obtain cash, credit, property, services, or any other thing of value, which item, cash, or instrument or device exceeds twenty dollars in value.

(b) "Local education provider" means:

(I) A school district, other than a junior college district, organized and existing pursuant to law;

(II) A board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools;

(III) A public school of a school district, including but not limited to a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title;

(IV) An institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title; and

(V) The state charter school institute established in section 22-30.5-503.

(c) "Parent" means the biological or adoptive mother or father or stepmother or stepfather of a child or any other person having legal or physical custody of a child.

(2) A local education provider shall not offer or provide to a school-aged child or the child's parent an item of value prior to, upon, or after enrolling in or attending an educational program operated by the local education provider unless:

(a) The local education provider makes the item of value available to the child continuously or at regular intervals throughout the school year and ceases providing the item of value if the child leaves the education program prior to the end of the school year;

(b) The local education provider awards the item of value at the end of the school year or upon matriculation in recognition of student performance; or

(c) The local education provider pays the item of value to the school-aged child or to his or her parent in exchange for services rendered by the child or by the child's parent at the request of the local education provider. For purposes of this paragraph (c), "services rendered" does not include school attendance or enrollment.

**Source: L. 2009:** Entire section added, (HB 09-1125), ch. 113, p. 477, § 1, effective April 16.

## ARTICLE 2

### Department - Commissioner

PART 1		22-2-114.	Department of education - special programs. (Repealed)
DEPARTMENT OF EDUCATION - COMMISSIONER		22-2-114.1.	Dropout rates - collection of data on grades seven through twelve.
22-2-101.	Short title.	22-2-115.	Early childhood education program - study - report to general assembly. (Repealed)
22-2-102.	Definitions.	22-2-116.	Additional power - waiver of reporting requirements - review of reporting requirements.
22-2-103.	Department of education.		
22-2-104.	Offices and positions - nature.	22-2-117.	Additional power - state board - waiver of requirements - rules.
22-2-105.	State board of education - composition.		
22-2-105.5.	State board of education - definitions - vacancies - procedure for filling.	22-2-118.	Department of education - study of school district administration and staffing patterns. (Repealed)
22-2-106.	State board - duties.	22-2-119.	Department of education - inquiries concerning prospective employees - background investigation fee.
22-2-106.5.	State board - duties with regard to student data - memorandum of understanding.		
22-2-107.	State board - power.	22-2-119.5.	Department of education - duty to report - convictions.
22-2-108.	Federal financial assistance.		
22-2-109.	State board of education - additional duties - teacher standards - principal standards.	22-2-120.	Department of education - study of optimum school size and the feasibility of school district reorganization. (Repealed)
22-2-110.	Commissioner of education - oath - qualifications - tenure.		
22-2-111.	Commissioner of education - office - records - confidential nature.	22-2-121.	Department of education - funding for national academic award winners. (Repealed)
22-2-112.	Commissioner - duties.		
22-2-113.	Commissioner - powers.	22-2-121.5.	National academic contest fund
22-2-113.5.	Educational programs for pupils in foster homes or placed by child placement agencies - study - repeal. (Repealed)		



	- balance of moneys - transfer.		gifts, grants, and donations - repeal.
22-2-122.	Grants to schools and school districts.	22-2-141.	Early literacy assessment tool - request for proposals - software - hardware - training - distribution - legislative declaration.
22-2-123.	Eligible facilities education task force - creation - membership - duties - repeal. (Repealed)		
22-2-124.	Family literacy education grant program - rules.		PART 2
22-2-125.	Loan program for capital improvements in growth school districts - use of public school fund.		SCHOLASTIC ACHIEVEMENT
		22-2-201 to 22-2-203.	(Repealed)
22-2-126.	On-line education programs - study - report - repeal. (Repealed)		PART 3
			DATA REPORTING AND TECHNOLOGY
22-2-127.	Financial literacy - resource bank - technical assistance.	22-2-301.	Short title.
22-2-128.	Department of education - reciprocal agreements with adjacent states - report.	22-2-302.	Legislative declaration.
		22-2-303.	Definitions.
22-2-129.	Department of education - approved supplemental education services providers - list.	22-2-304.	Education data advisory committee - creation - duties - repeal.
22-2-130.	Supplemental on-line education grant program - legislative declaration - definitions - creation - eligibility - award - fund.	22-2-305.	Data dictionary - legislative declaration - creation - contents - report.
22-2-131.	Data technology system - comprehensive review - requirements - report - repeal. (Repealed)	22-2-306.	Advance notice - legislative declaration - data collection - data submission changes - web site update - submission windows.
22-2-132.	Department of education - career and technical education credential - rules.	22-2-307.	Data reporting requirements - interpretation of federal law - suspension.
22-2-133.	Assessment and identification of students with literacy challenges including dyslexia - training and technical assistance - collaboration with higher education - report.	22-2-308.	Data reporting requirements - office of legislative legal services.
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22-2-134.	Unique student identifier - early childhood education - rules.		FACILITY SCHOOLS UNIT
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22-2-136.	Additional duty - state board - individual career and academic plans - standards - rules.	22-2-402.	Definitions.
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		22-2-408.	Approved facility schools - funding.
		22-2-409.	Notification of risk.
			PART 5
			TEACHER RECRUITMENT AND RETENTION
		22-2-501.	Legislative declaration.

22-2-502.	Definitions.	22-2-504.	National board for professional
22-2-503.	Teaching and learning conditions survey.		teaching standards certification compensation - study.

## PART 1

## DEPARTMENT OF EDUCATION - COMMISSIONER

**Editor's note:** This part 1 was numbered as article 1 of chapter 123, C.R.S. 1963. The substantive provisions of this part 1 were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-2-101. Short title.** This part 1 shall be known and may be cited as the "State Department of Education Act of 1964".

**Source:** L. 64: R&RE, p. 528, § 1. C.R.S. 1963: § 123-1-1.

**22-2-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Commissioner of education" or "commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(2) "Department of education" or "department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "Nonpublic school" means a school organized and maintained by a recognized religious or independent association performing an academic function.

(4) "Public school" means a school maintained and operated by a school district.

(4.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(5) "State board of education" or "state board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source:** L. 64: R&RE, p. 528, § 1. C.R.S. 1963: § 123-1-2. L. 75: (4) amended, p. 786, § 3, effective July 1. L. 2012: (4.5) added, (HB 12-1090), ch. 44, p. 149, § 2, effective March 22.

**22-2-103. Department of education.** (1) The department of education shall include the following:

- (a) The state board of education;
- (b) The commissioner of education, assistant commissioners of education, and other officers and employees of the department;
- (c) The state library, created in section 24-90-104, C.R.S.;
- (d) The Colorado school for the deaf and the blind, as provided for in article 80 of this title;
- (e) The state charter school institute established in section 22-30.5-503;
- (f) The division of on-line learning established in section 22-30.7-103;
- (g) The facility schools unit created in section 22-2-403;
- (h) The facility schools board created in section 22-2-404;
- (i) The Colorado state advisory council for parent involvement in education created in section 22-7-303;
- (j) The office of dropout prevention and student re-engagement created in section 22-14-103; and
- (k) The concurrent enrollment advisory board created in section 22-35-107.

**Source:** L. 64: R&RE, pp. 109, 529, §§ 3, 1. C.R.S. 1963: § 123-1-3. L. 68: p. 94, § 41. L. 2008: (1)(g) and (1)(h) added, p. 1382, § 3, effective May 27; entire section



amended, p. 1894, § 68, effective August 5. **L. 2009:** (1)(g) and (1)(h) amended and (1)(j) added, (HB 09-1243), ch. 290, p. 1424, § 6, effective May 21; (1)(g) and (1)(h) amended and (1)(k) added, (HB 09-1319), ch. 286, p. 1317, § 3, effective May 21; (1)(g) and (1)(h) amended and (1)(i) added, (SB 09-090), ch. 291, p. 1444, § 19, effective August 5.

**Editor's note:** (1) Amendments to this section by House Bill 08-1204 and House Bill 08-1412 were harmonized.

(2) Amendments to subsections (1)(g) and (1)(h) by House Bill 09-1243, House Bill 09-1319, and Senate Bill 09-090 were harmonized.

**22-2-104. Offices and positions - nature.** As a matter of legislative determination, the offices of commissioner of education, assistant commissioners of education, and all positions of employment classified by the board as director, consultant, supervisor, or instructor are declared to be educational in nature and not under the state personnel system.

**Source:** **L. 64:** R&RE, p. 529, § 1. **C.R.S. 1963:** § 123-1-4.

**Cross references:** For exemption of the commissioner from state personnel system, see § 1 of article IX of the state constitution; for exemption of faculty and administrators in educational institutions and departments not reformatory or charitable in character, see § 13 (2) of article XII of the state constitution.

#### ANNOTATION

**This section is constitutional under § 13 of art. XII, Colo. Const.** Bd. of Educ. v. Spurlin, 141 Colo. 508, 349 P.2d 357 (1960) (decided

prior to the amendment of § 13 of art. XII, Colo. Const., to include educational "departments" and "administrators").

**22-2-105. State board of education - composition.** (1) The state board of education shall consist of one member elected from each congressional district in the state and, if the total number of congressional districts of the state is an even number, one member elected from the state at large. The members of the state board of education serving on April 30, 1982, shall continue to serve the terms for which they were elected. At the general election held in 1982, one member shall be elected from the second congressional district for a six-year term, one member shall be elected from the fourth congressional district for a six-year term, one member shall be elected from the fifth congressional district for a four-year term, and one member shall be elected from the state at large for a six-year term, all such terms commencing on the second Tuesday in January 1983. At the general election held in 1984, one member shall be elected from the first congressional district for a six-year term, and one member shall be elected from the third congressional district for a six-year term, all such terms commencing on the second Tuesday in January 1985. At the general election held in 1986, one member shall be elected from the fifth congressional district for a six-year term, and one member shall be elected from the sixth congressional district for a six-year term, all such terms commencing on the second Tuesday in January 1987. At the general election held in 2002, one member shall be elected from the seventh congressional district for a six-year term commencing on the second Tuesday in January 2003.

(2) The member of the state board from each congressional district of the state shall be nominated and elected by the registered electors of such district in the same manner as members of the house of representatives of the congress of the United States are nominated and elected. Each member from a congressional district shall be a registered elector of such district. If the total number of congressional districts of the state is an even number, the additional member of the board shall be nominated and elected at large in the same manner as state officers are nominated and elected. If the total number of congressional districts changes to an odd number during the term of the member elected at large, such member shall be permitted to continue serving on the state board until the expiration of his or her term.

(3) Except as provided in subsection (1) of this section, members shall be elected for

terms of six years. They shall serve without compensation but shall be reimbursed for any necessary expenses incurred by them in the performance of their duties as members.

(3.5) Any member of the state board who was elected to office as a resident of a designated congressional district, and who no longer resides in such congressional district solely because of a change made to the boundaries of such district subsequent to the 2000 federal decennial census, is eligible to hold office for the remainder of the term for which the member was elected, notwithstanding such nonresidency.

(4) The state board shall elect from its own membership a chairman and a vice-chairman who shall hold office for terms of two years. The commissioner shall act as secretary to the state board. The state board shall meet at least quarterly and at such other times as may be necessary, upon call of the chairman or the commissioner or by a majority of its members.

(5) If the total number of congressional districts changes to an odd number during the term of the member elected at large, a vacancy of such member's seat shall not be filled by the state board.

(6) For any board member elected on or after May 22, 2008, during his or her term of office, a member of the state board shall not be a member of the general assembly; an officer, employee, or board member of a school district or charter school in the state; an officer, employee, or board member of the state charter school institute or the institute board; or an employee of the state board or the department of education.

**Source:** **L. 64:** R&RE, p. 529, § 1. **C.R.S. 1963:** § 123-1-5. **L. 72:** p. 552, § 18. **L. 81:** (1) amended, p. 295, § 17, effective June 19. **L. 82:** (1) R&RE and (3) amended, pp. 352, 353, §§ 8, 9, effective April 30. **L. 87:** (2) amended, p. 305, § 21, effective July 1. **L. 99:** (5) amended, p. 142, § 1, effective August 4. **L. 2002:** (5) repealed, p. 536, § 1, effective July 1; (1), (2), and (5) amended and (3.5) added, p. 944, § 5, effective August 7. **L. 2007:** (6) added, p. 737, § 8, effective May 9. **L. 2008:** (6) amended, p. 1206, § 13, effective May 22.

**Editor's note:** Amendments to subsection (5) by House Bill 02-1403 and House Bill 02-1245 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (6), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-2-105.5. State board of education - definitions - vacancies - procedure for filling.** (1) As used in this section:

(a) "Party congressional central committee" means the committee established pursuant to section 1-3-103 (3), C.R.S.

(b) "State central committee" means the committee established pursuant to section 1-3-103 (2), C.R.S.

(2) Any vacancy occurring on the state board that may occur by reason of death, removal, or resignation from office, or removal from the district from which elected, or when a board member is elected, qualified, and takes office for another state office, shall be filled as provided in this section. Any member selected to fill a vacancy pursuant to this section shall serve until the next regular election providing such appointee is subject to the qualifications set forth by law.

(3) (a) Any vacancy occurring on the state board, other than a vacancy in a seat filled by a member elected from the state at large, shall be filled by the vacancy committee of the party congressional central committee of the same political party as the vacating board member for the congressional district represented by the vacating board member. If no vacancy committee of the party congressional central committee exists, the party congressional central committee shall perform the functions of the vacancy committee.

(b) If the vacating board member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party.



(c) If the vacating member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the vacating board member's petition for nomination pursuant to section 1-4-802 (1) (e), C.R.S.

(4) (a) The vacancy committee identified in subsection (3) of this section, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who possesses the qualifications for a member of the state board and who is affiliated with the same political party or minor political party, if any, of the vacating board member, as shown on the registration books of the county clerk and recorder.

(b) At least six days prior to the meeting at which the vacancy committee selects a person to fill the vacancy, the chairperson of the party congressional central committee that selected the members of the vacancy committee shall mail to each member of the vacancy committee a written notice announcing the time and location of the vacancy committee meeting. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. The vacancy committee may not select a person to fill the vacancy at any meeting for which notice is not provided pursuant to this paragraph (b).

(c) No meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee. No member of the vacancy committee may vote by proxy.

(d) The vacancy committee shall certify the selection to the secretary of state within thirty days after the date the vacancy occurs. If the vacancy committee fails to certify a selection within thirty days in accordance with the provisions of this paragraph (d), the governor, within thirty-five days after the vacancy occurs, shall fill the vacancy by appointing a person having the qualifications set forth in paragraph (a) of this subsection (4). The name of the person appointed by the governor shall be certified to the secretary of state. The person selected or appointed pursuant to this subsection (4), after having qualified and taken the oath of office, shall immediately assume the duties of office.

(5) (a) In the event of a vacancy in the seat held by the state board member elected from the state at large, within five days after the state board receives notice of the vacancy, or within five days after the effective date of the resignation, whichever is later, the secretary of the state board shall refer the vacancy to the state central committee of the same political party as the vacating state board member. The state central committee shall refer the matter to the state central committee executive committee selected pursuant to section 1-3-105 (2), C.R.S.

(b) If the vacating board member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party.

(c) If the vacating member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the vacating board member's petition for nomination pursuant to section 1-4-802 (1) (e), C.R.S.

(6) (a) A vacancy occurring in the seat held by the state board member elected from the state at large shall be filled in accordance with the procedures established in this subsection (6).

(b) Within thirty days after being notified by the secretary of the state board of the occurrence of a vacancy, the vacancy or executive committee identified in subsection (5) of this section shall meet and, by a majority vote of its members present and voting at a meeting called for that purpose, shall nominate no fewer than three and no more than five candidates who possess the qualifications for a member of the state board and who are affiliated with the same political party or minor political party, if any, as the vacating board member, as shown on the registration books of the county clerk and recorder. The names of the candidates nominated shall be forwarded to the secretary of the state board.

(c) The state board shall, within twenty calendar days after receiving the names from the vacancy or executive committee identified in subsection (5) of this section interview all of the nominated candidates; except that the vacating board member shall not participate in the interview process.

(d) After completion of the interviews, and at a date and time established by the state board, the state board shall hold an open meeting to vote on the selection of a nominee to



fill the vacancy. The vacating board member shall not participate in the open meeting to vote on the selection of a nominee to fill the vacancy. Nominees for selection shall be limited to the nominees referred to the state board by the vacancy or executive committee identified in subsection (5) of this section. Selection of a nominee shall occur by a majority vote of the state board members present and voting at the meeting called for such purpose. No meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the state board. No member of the state board may vote by proxy. The state board shall certify the selection to the secretary of state within ten days after the meeting called to make the selection. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office.

(e) In the event that the state board, after reasonable efforts to elect by a majority vote a nominee to fill the vacancy, is unable to elect a nominee by a majority vote, the selection of one of the persons nominated pursuant to paragraph (b) of this subsection (6) shall be made by the highest elected state official of the same political party as the vacating board member, in the following order: Governor; president of the senate; speaker of the house of representatives; minority leader of the senate; minority leader of the house of representatives. The name of the nominee selected by the highest elected state official shall be certified to the secretary of state. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office.

(7) If a vacancy on the state board is caused by the resignation of a member of the state board and the letter of resignation gives an effective date of resignation that is later than the date the letter of resignation is submitted, the vacancy committee identified in subsection (3) of this section or the vacancy or executive committee identified in subsection (5) of this section, whichever is applicable, may meet no more than twenty days prior to the effective date of the resignation for the purpose of nominating a person to fill the vacancy. The certification of the nominee of the vacancy or executive committee, whichever is applicable, to the secretary of state may not be made prior to the effective date of the resignation and, if the member of the state board withdraws the letter of resignation prior to the effective date of the resignation, the person nominated by the vacancy or executive committee, whichever is applicable, may not be certified to the secretary of state.

(8) If the vacancy is caused by the death of a member-elect of the state board who has been elected to office but who has not yet been sworn in, the vacancy committee identified in subsection (3) of this section or the vacancy or executive committee identified in subsection (5) of this section, whichever is applicable, shall meet within thirty days after the death of the state board member-elect to fill the vacancy. The certification of the nomination of the vacancy or executive committee, whichever is applicable, to the secretary of state may be made prior to the convening of the state board but shall not take effect until the effective date of the vacancy, which is the first day the state board convenes.

**Source: L. 2002:** Entire section added, p. 536, § 2, effective July 1. **L. 2008:** (4)(d), (6)(b), and (8) amended, p. 1747, § 3, effective August 5.

**22-2-106. State board - duties.** (1) It is the duty of the state board:

(a) To exercise general supervision over the public schools of the state and the educational programs maintained and operated by all state governmental agencies for persons who have not completed the twelfth-grade level of instruction;

(a.5) To adopt, on or before May 15, 2013, a comprehensive set of guidelines for the establishment of high school graduation requirements to be used by each school district board of education in developing local high school graduation requirements. Each school district board of education shall retain the authority to develop its own unique high school graduation requirements, so long as those local high school graduation requirements meet or exceed any minimum standards or basic core competencies or skills identified in the comprehensive set of guidelines for high school graduation developed by the state board pursuant to this paragraph (a.5). In developing the guidelines for high school graduation, the state board shall utilize the recommendations of the state graduation guidelines development council established in section 22-7-414, as it existed prior to July 1, 2008, and shall:

(I) Take into account recommendations from the 2006 report of the Colorado education alignment council appointed by the governor pursuant to executive order B 009 05;

(II) Ensure that the state graduation guidelines are aligned with the description of postsecondary and workforce readiness, including but not limited to the minimum required English language competencies, adopted by the state board and the Colorado commission on higher education pursuant to section 22-7-1008 and with the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005;

(III) Work with the Colorado commission on higher education to ensure that the state board's guidelines for high school graduation adopted pursuant to this paragraph (a.5) and the postsecondary academic admission standards established pursuant to section 23-1-113, C.R.S., are aligned for students entering a four-year public postsecondary education institution on or after August 1, 2013;

(IV) Recognize and address the multiple and diverse pathways to diplomas offered by school districts in the state. The guidelines for high school graduation shall accommodate the differing and broad categories of student interests and economic needs, including but not limited to agriculture, architecture, arts, communications, business and management, construction technology, education, finance, government, health sciences, tourism, human services, information technology, law and public safety, manufacturing, marketing and sales, physical education, science and technology, and transportation. The guidelines for high school graduation adopted by the state board pursuant to this paragraph (a.5) shall ensure, at a minimum, that, while not identical, each pathway is equally rigorous.

(V) Utilize standards-based education, as described in section 22-7-402, and as revised pursuant to part 10 of article 7 of this title, as the framework for the development of the guidelines for high school graduation and consider how high school graduation requirements can be articulated in a standards-based education system. In the process of developing the guidelines for high school graduation, the state board shall ensure that the state model content standards, adopted pursuant to section 22-7-406, are sufficiently rigorous, particularly in the core academic subject areas of mathematics, science, reading, and writing so that students are exposed to subject matter that research indicates will adequately prepare them for entrance into the workforce or the postsecondary education system. On or before August 1, 2007, the state board shall begin to receive public comment on the adequacy of the existing state model content standards. As part of receiving public comment, the state board is encouraged to form a stakeholder group of parents, teachers, administrators, and others to develop recommendations related to modernizing the state model content standards in mathematics, science, reading, and writing. On or before February 1, 2008, the state board shall report to the education committees of the house of representatives and the senate, or any successor committees, on the adequacy of the existing state model content standards in these subject matters.

(VI) Recognize and acknowledge the importance of obtaining the core competency skills and standards to succeed in the twenty-first century, including but not limited to proficiency in math, science, and written and verbal communication skills;

(VI.5) Recognize and acknowledge the importance of education in performing arts, as defined in section 22-1-104.5 (1) (b), and visual arts, as defined in section 22-1-104.5 (1) (c), in strengthening student learning in other subjects and in supporting students' ability to succeed in the twenty-first century; and

(VII) Take into account the importance of pre-high school and postsecondary career planning that provides middle school and junior high school students and parents with awareness of the school district's high school graduation requirements, the multiple pathways a student can follow, and other pertinent information that will help prepare a student for a successful high school experience.

(b) To appoint a commissioner of education;

(b.5) To review and evaluate annually the job performance of the commissioner of education using procedures and criteria determined by the state board. The procedures and criteria shall include, at a minimum, consideration of the comments and opinions of school district superintendents and school board members regarding the commissioner's job



performance. The state board shall report the results of its evaluation to the education committees of the house of representatives and senate, or any successor committees.

(c) To appraise and accredit the public schools and school districts in this state and the state charter school institute pursuant to the provisions of article 11 of this title, and to submit recommendations to the governor and general assembly for improvements in education;

(d) To approve the annual budget request for the department prior to submission;

(e) To order the distribution or apportionment of federal and state moneys granted or appropriated to the department for the use of the public schools of the state, except moneys granted or made available to another agency specifically designated;

(f) To review the annual report prepared by the commissioner and to transmit it to the governor in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S.;

(f.5) To comply with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans, as if the state board were the executive director of the department;

(f.7) To provide such aggregate, nonidentifying information concerning student enrollment in every school district in the state that the department of human services may request pursuant to section 19-1-115.5, C.R.S.;

(f.9) Repealed.

(g) To perform any other duty which may be required by law;

(h) On or before January 15, 2012, to adopt by rule standards for charter schools and charter school authorizers based on the recommendations made by the charter school and charter authorizer standards review committee pursuant to section 22-30.5-104.5.

(2) and (3) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1528, § 7, effective May 21, 2009.)

**Source:** L. 64: R&RE, p. 530, § 1. C.R.S. 1963: § 123-1-6. L. 80: (1)(c) amended and (2) and (3) added, p. 550, § 1, effective May 1. L. 83: (1)(f) amended, p. 832, § 33, effective July 1. L. 93: (2) amended, p. 1047, § 2, effective June 3. L. 94: (1)(f.5) added, p. 563, § 5, effective April 6. L. 97: (1)(f.7) added, p. 150, § 3, effective July 1; (2)(b) amended, p. 460, § 2, effective August 6. L. 98: (1)(c), (2), and (3) amended, p. 985, § 2, effective July 1. L. 2001: (3) amended, p. 1176, § 6, effective August 8. L. 2007: (1)(b.5) added, p. 170, § 3, effective March 22; (1)(a.5) added, p. 675, § 2, effective May 2; (1)(f.9) added, p. 1085, § 5, effective July 1. L. 2008: IP(1)(a.5) and (1)(a.5)(V) amended and (1)(a.5)(II) added, p. 768, § 2, effective May 14. L. 2009: (1)(c), (2), and (3) amended, (SB 09-163), ch. 293, p. 1528, § 7, effective May 21; IP(1)(a.5) amended, (SB 09-292), ch. 369, p. 1950, § 40, effective August 5. L. 2010: IP(1)(a.5), (1)(a.5)(III), and (1)(a.5)(VI) amended and (1)(a.5)(VI.5) added, (HB 10-1273), ch. 233, p. 1020, § 3, effective May 18; (1)(h) added, (HB 10-1412), ch. 248, p. 1108, § 2, effective May 21; IP(1)(a.5) amended, (HB 10-1013), ch. 399, p. 1907, § 20, effective June 10. L. 2012: IP(1)(a.5) amended, (HB 12-1240), ch. 258, p. 1308, § 1, effective June 4.

**Editor's note:** Subsection (1)(f.9)(II) provided for the repeal of subsection (1)(f.9), effective July 2, 2008. (See L. 2007, p. 1085.)

**Cross references:** (1) For additional duties of the state board of education, see § 22-2-109; for duties concerning the collection of data on dropout rates, see § 22-2-114.1; for the duty to approve moneys for boards of cooperative services, see § 22-5-114; for duties concerning educational accountability, see article 7 of this title; for duties concerning the evaluation of performance of certificated personnel, see § 22-9-104; for duties concerning the education of exceptional children, see article 20 of this title; for the duty to supervise summer school programs under the "Migrant Children Educational Act", see § 22-23-106; for the duty to adopt rules and regulations concerning comprehensive health education programs, see § 22-25-104; for duties concerning the establishment of financial policies and procedures for school districts, see part 2 of article 44 of this title; for the duty to prescribe the minimum accounts to be maintained by school districts, see § 22-45-102; for duties concerning the reimbursement of transportation costs of school districts, see article 51 of this title; for



duties concerning the second chance program for problem students, see article 52 of this title; for duties concerning school finance, see article 54 of this title.

(2) For the legislative declaration in the 2007 act adding subsection (1)(a.5), see section 1 of chapter 182, Session Laws of Colorado 2007. For the legislative declaration in the 2007 act adding subsection (1)(b.5), see section 1 of chapter 48, Session Laws of Colorado 2007. For the legislative declaration in the 2010 act amending the introductory portion to subsection (1)(a.5) and subsections (1)(a.5)(III) and (1)(a.5)(VI) and adding subsection (1)(a.5)(VI.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-2-106.5. State board - duties with regard to student data - memorandum of understanding.** Notwithstanding the provisions of section 22-2-111 (3) (a), the state board shall enter into a memorandum of understanding on or before September 1, 2006, with the Colorado commission on higher education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal “Family Educational Rights and Privacy Act of 1974”, as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the state board, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

**Source: L. 2006:** Entire section added, p. 716, § 4, effective July 1.

**22-2-107. State board - power.** (1) The state board has the power:

- (a) To perform all duties delegated to it by law;
- (b) To employ personnel, subject to the provisions of section 13 of article XII of the state constitution, as may be necessary for the performance of powers and duties delegated to the state board, the commissioner, and the department;
- (c) To promulgate and adopt policies, rules, and regulations concerning general supervision of the public schools, the department, and the educational programs maintained and operated by all state governmental agencies for persons who have not completed the twelfth-grade level of instruction;
- (d) To approve within the appropriation made by the general assembly a salary schedule for personnel of the department who are not within the state personnel system;
- (e) To create, maintain, and modify, from time to time, such administrative organization for personnel of the department as may be deemed necessary or beneficial;
- (f) To provide consultative services to the public schools and boards of education of school districts;
- (g) To appraise for the purpose of accreditation any nonpublic school, but only upon its request;
- (g.5) Repealed.
- (h) To accept gifts, grants, and donations of any nature for the use of the department or the public schools in accordance with conditions prescribed by the donor; but no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law;
- (i) To prepare, approve, and implement plans necessary as a prerequisite to the receipt of federal moneys or property under any act of congress for the use of the public schools of the state, except moneys granted or made available to another agency specifically designated;
- (j) To require a school district to take a school census, from time to time, containing such items of information as determined by the state board, and to give reasonable notice to each school district before requiring the taking of a census;
- (k) To appoint such advisory committees as may be beneficial to the improvement of education in the state;
- (l) To cooperate with other agencies either within or without the state for the improvement of education;

(m) To cause to be prepared or corrected any report required by law to be filed by a school district at any time that a school district has failed to file such report when due or has filed a grossly inaccurate or incomplete report and to cause such school district to pay the cost of such preparation or correction;

(n) To enter into reciprocal agreements for the exchange of information relative to the issuance, denial, or revocation of teacher licenses or certificates with the legally constituted licensing or certifying agencies in other states;

(o) To enter into contracts with the state board for community colleges and occupational education for the development and for the supervision of the administration and implementation of state plans for occupational education in the public elementary and secondary schools;

(p) Repealed.

(q) To promulgate rules and regulations to define the types and amounts of costs in excess of applicable revenues that a school district of residence of a child with a disability shall pay as tuition to educate that child elsewhere within Colorado at a facility, as defined by the department in its regulations, approved by the facility schools unit in the department pursuant to section 22-2-407, or at an administrative unit as defined in section 22-20-103 (1) other than the administrative unit of residence; however, a school district may pay a higher amount, as provided in section 22-20-109 (1);

(r) To take the actions necessary to comply with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans;

(s) To approve programs by nonpublic, nonparochial schools to provide educational services to students pursuant to section 22-33-203, and to approve services to be provided to at-risk students pursuant to agreements entered into pursuant to section 22-33-204; and

(t) To render a decision on the appeal of the state charter school institute's approval or denial of an institute charter school application or the revocation or nonrenewal of an institute charter school contract pursuant to part 5 of article 30.5 of this title.

**Source:** L. 64: R&RE, p. 530, § 1. C.R.S. 1963: § 123-1-7. L. 67: p. 446, § 23. L. 83: (1)(p) and (1)(q) amended, p. 739, § 1, effective June 10. L. 87: (1)(q) amended, p. 826, § 1, effective May 16. L. 93: (1)(p) and (1)(q) amended, p. 1638, § 27, effective July 1. L. 94: (1)(r) added, p. 564, § 6, effective April 6. L. 96: (1)(g.5) added, p. 1798, § 16, effective June 4. L. 2000: (1)(s) added, p. 1972, § 14, effective June 2. L. 2004: (1)(g.5) amended, p. 1390, § 7, effective May 28; (1)(n) amended, p. 1283, § 12, effective May 28; (1)(g.5) amended, p. 1586, § 13, effective June 3; (1)(s) amended and (1)(t) added, p. 1617, § 2, effective July 1. L. 2008: (1)(p) amended, p. 1382, § 4, effective May 27. L. 2009: (1)(g.5) repealed, (SB 09-163), ch. 293, p. 1528, § 8, effective May 21; (1)(q) amended, (SB 09-292), ch. 369, p. 1951, § 41, effective August 5.

**Editor's note:** Subsection (1)(p)(II) provided for the repeal of subsection (1)(p), effective July 1, 2008. (See L. 2008, p. 1382.)

**22-2-108. Federal financial assistance.** (1) The state board of education is authorized to accept, use, and administer all moneys and properties granted or made available to the state or any agency thereof for an educational purpose, except those moneys and properties granted or made available for such purpose to another such agency specifically designated.

(2) If it is necessary to execute a formal agreement with a federal agency or officer as a condition precedent to receiving federal moneys or property pursuant to subsection (1) of this section, the state board is authorized to execute such an agreement, with the approval of the attorney general, provided such agreement shall not be inconsistent with law.

(3) The state treasurer is authorized to receive any moneys accepted pursuant to the provisions of subsection (1) of this section as official custodian thereof, and he shall disburse said moneys upon the order of the state board.

(4) By July 1, 2005, and by July 1 of each year thereafter, the state board shall submit a report to the education committees of the senate and house of representatives, or any



successor committees, detailing the total amount of federal funds received by the state board in the prior fiscal year, accounting how the funds were used, specifying the federal law or regulation that governs the use of the federal funds, if any, and providing information regarding any flexibility the state board has in using the federal funds.

**Source:** L. 64: R&RE, p. 532, § 1. C.R.S. 1963: § 123-1-8. L. 2005: (4) added, p. 440, § 18, effective April 29.

**22-2-109. State board of education - additional duties - teacher standards - principal standards.** (1) The state board of education shall:

- (a) Repealed.
- (b) to (f) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)
- (g) Adopt rules that prescribe performance-based standards of qualification, preparation, training, or experience that are required for the issuance of all licenses, master certificates, and authorizations, as provided for in article 60.5 of this title;
- (h) Adopt rules that prescribe performance-based standards for endorsements deemed appropriate for each type of license or authorization;
- (i) Utilize representatives from all levels of education in the development of performance-based standards of qualification, preparation, and experience for all licenses, master certificates, authorizations, and endorsements;
- (j) Conduct or arrange for research pertinent or essential to implement the provisions of article 60.5 of this title, including but not limited to educator licensure and educator preparation programs in institutions of higher education;
- (k) and (l) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)
- (m) Repealed.
- (n) and (o) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)
- (p) Adopt rules to ensure that administrator programs of preparation meet the requirements concerning instruction in evaluating licensed personnel specified in section 22-9-108;
- (q) Adopt rules that require the reporting between school districts of the enrollment of any students who have transferred to another school or school district within the state. Such rules shall improve the ability of school districts to accurately identify which students have in fact dropped out of school and which students have merely transferred to another school or school district. Such rules shall also set forth uniform standards for determining which school or school district shall count a dropout as part of its own dropout count.
- (r) Repealed.
- (2) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)
- (3) On or before July 1, 2000, the state board of education by rule shall adopt performance-based teacher licensure standards, which at a minimum shall include a requirement that each candidate for an initial teacher license shall have and be able to demonstrate the following skills:
  - (a) The ability to align instructional objectives with adopted student learning standards;
  - (b) The ability to teach in a manner that addresses individual student needs and enables the student to improve his or her performance;
  - (c) Proficiency in measuring and monitoring each student's progress toward achieving learning standards;
  - (d) The ability to adjust instructional practices and methods when necessary to stimulate or enhance student progress;
  - (e) The ability to engage parents as learning partners to promote student learning;
  - (f) The ability to integrate technology into instruction at the grade level for which the teacher expects to be endorsed;
  - (g) The ability to assess student performance;
  - (h) The ability to demonstrate a high level of content area knowledge and professional competencies in the areas identified by rule of the state board pursuant to section 22-60.5-203.
- (4) In adopting the performance-based teacher licensure standards pursuant to subsection (3) of this section, the state board shall also adopt rules specifying the methods by which a teacher candidate may demonstrate that he or she has achieved the specified skills



and the manner in which such demonstrations may be documented for submission when the teacher candidate applies for licensure.

(5) (a) The state board shall review the content of educator preparation programs offered by institutions of higher education within the state. Such review shall be designed to ensure that the content of each program is designed and implemented in a manner that will enable a candidate to meet the requirements specified by the state board pursuant to subsection (3) of this section and the requirements for licensure endorsement adopted by rule of the state board pursuant to section 22-60.5-106. The state board shall recommend to the Colorado commission on higher education that a program not be approved pursuant to section 23-1-121, C.R.S., if it determines that the program content does not meet the requirements specified in subsection (3) of this section or the endorsement requirements.

(b) Upon the request of a nonpublic institution that provides an educator preparation program, the state board shall review the content of the program to determine whether the program content is designed and implemented in a manner that will enable a candidate to meet the requirements specified by the state board of education pursuant to subsection (3) of this section, and the requirements for licensure endorsement adopted by rule of the state board pursuant to section 22-60.5-106. Upon completion of the review, the state board shall notify the Colorado commission on higher education concerning whether the program content meets said requirements.

(6) (a) On or before January 1, 2003, the state board of education by rule shall adopt performance-based principal licensure standards to guide the development of principal preparation programs offered by institutions of higher education. The state board of education shall develop said standards in collaboration with institutions of higher education that offer principal preparation programs, superintendents and local boards of education, and the commission on higher education. The state board of education shall ensure that said standards are consistent with national standards for principal preparation. Said standards shall include, but need not be limited to, the following:

(I) Strong leadership development that shall include but need not be limited to decision-making, communication, and human relations skills; and

(II) Instructional skills and knowledge and the use of data necessary to lead and organize a standards-based school that is characterized by student proficiency in literacy and the state model content standards as described in section 22-7-406.

(b) Repealed.

(7) (a) Beginning with the 2006-07 school year and annually thereafter, the state board shall direct the department to survey the superintendents of the school districts of the state who employ principals who hold a principal authorization or an initial principal license or who obtain a professional principal license without first holding an initial principal license and who are in their first three years of employment as a principal. The department shall base the survey questions on the performance-based principal licensure standards adopted by the state board pursuant to subsection (6) of this section. The department shall design the survey to solicit information by which to measure the quality and effectiveness of principal preparation programs and other alternative forms of principal preparation and to solicit information from superintendents concerning the principal licensure standards.

(b) The state board shall submit annually to the education committees of the house of representatives and the senate, or any successor committees, a written summary report of the results of the survey conducted pursuant to paragraph (a) of this subsection (7). In submitting the report, the state board shall ensure that the report for the current year and the preceding year's report, if one exists, are available to the education committees for consideration at the biennial joint meeting held pursuant to section 22-60.5-116.5. The state board shall also submit the report annually to the governor, the Colorado commission on higher education, and the institutions of higher education that operate principal preparation programs.

(c) The costs incurred by the department in implementing this subsection (7) shall be paid from moneys appropriated from the educator licensure cash fund created in section 22-60.5-112 (1).

**Source:** L. 64: R&RE, pp. 532, 533, § 1. C.R.S. 1963: §§ 123-1-9, 123-1-10. L. 68: p. 95, §§ 42-44. L. 75: (1) R & RE, p. 718, § 1, effective July 1, 1976. L. 77: (1)(a)

repealed, p. 1087, § 6, effective July 1. **L. 79:** (1)(l) added, p. 772, § 1, effective June 19. **L. 89:** (1)(m) added, p. 952, § 2, effective July 1. **L. 91:** (1)(n) and (1)(o) added, p. 511, § 2, effective July 1, 1994. **L. 98:** (1)(b) and (1)(c) amended, p. 991, § 14, effective July 1; (1)(p) added, p. 285, § 2, effective July 1. **L. 99:** Entire section amended, p. 1186, § 2, effective June 1; (1)(q) added, p. 1057, § 2, effective June 1. **L. 2000:** (1)(p) amended, p. 1849, § 39, effective August 2. **L. 2001:** (1)(r) added, p. 169, § 2, effective August 8. **L. 2002:** (1)(p) amended and (6) added, p. 1352, § 2, effective June 7. **L. 2004:** (1)(g), (1)(i), and (1)(p) amended, p. 1284, § 13, effective May 28. **L. 2005:** IP(3) amended, p. 188, § 29, effective April 7. **L. 2006:** (7) added, p. 1238, § 1, effective May 26; (6)(b) repealed, p. 595, § 4, effective August 7. **L. 2011:** (1)(j), (5), and (7)(a) amended, (SB 11-245), ch. 201, p. 847, § 4, effective August 10. **L. 2012:** (1)(r) repealed, (HB 12-1240), ch. 258, p. 1309, § 3, effective June 4.

**Editor's note:** Subsection (1)(m) provided for the repeal of subsection (1)(m), effective June 30, 1994. (See L. 89, p. 952.)

**Cross references:** (1) For other duties of the state board, see § 22-2-106.

(2) For the legislative declaration in the 2011 act amending subsections (1)(j), (5), and (7)(a), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-2-110. Commissioner of education - oath - qualifications - tenure.** (1) The commissioner of education shall be the chief state school officer and executive officer of the department of education. He or she shall possess the professional qualifications described in subsection (4) of this section and such additional professional qualifications as may be deemed appropriate for the office by the state board.

(2) The commissioner shall be appointed by the state board, serve at the pleasure of the board, and receive such compensation as may be determined by the board.

(3) Before entering upon his or her duties, the commissioner shall subscribe to an oath of office, which oath shall be filed with the secretary of state.

(4) The person appointed to the office of commissioner of education by the state board pursuant to subsection (2) of this section shall, at a minimum, satisfy the following professional qualifications:

(a) The person shall have demonstrated personal and professional leadership success, preferably in the administration of public education; and

(b) The person shall possess an earned advanced degree, preferably in education or educational administration awarded from a regionally or nationally accredited college or university.

(5) The state board shall annually review and evaluate the job performance of the commissioner, as provided in section 22-2-106 (1) (b.5), and report the results of its evaluation to the public and the education committees of the house of representatives and senate, or any successor committees.

**Source:** **L. 64:** R&RE, p. 534, § 1. **C.R.S. 1963:** § 123-1-11. **L. 2007:** Entire section amended, p. 169, § 2, effective March 22.

**Cross references:** (1) For the constitutional oath of office, see § 8 of article XII of the state constitution.

(2) For the legislative declaration contained in the 2007 act amending this section, see section 1 of chapter 48, Session Laws of Colorado 2007.

**22-2-111. Commissioner of education - office - records - confidential nature.**

(1) The commissioner shall have an office at the seat of the government where he shall keep an official seal and all books and papers pertaining to the business affairs of his office. He shall be entitled to reimbursements for necessary travel and subsistence expenses, incurred either within or without the state, in accordance with regulations promulgated by the state controller.



(2) Copies of all papers, reports, and documents filed in his office, and his official acts, may be certified by him under seal, and when so certified shall be evidence of his official acts equally and in a like manner as the original paper, report, or document or testimony under oath.

(3) (a) Except when requested by the governor or a committee of the general assembly or pursuant to compliance with section 22-32-109.8 or 22-2-119, all papers filed in the department of education that contain personal information about applicants for employment, employees, or holders of educator licenses or authorizations or about pupils' test scores are classified as confidential in nature; however, each educator has the right to inspect and to have copies made at the educator's expense of all information pertaining to the educator on file in the department of education. The educator may challenge any such record by formal letter or other evidence, which shall be added to the state records. The state board may authorize any material to be added to or removed from an educator's official records in its custody. It is unlawful for any officer, employee, or other person to divulge, or to make known in any way, any such personal information without the written consent of said applicant, employee, educator, or pupil; but the information may be divulged or made known in the normal and proper course of administration of programs relating thereto without such written consent. Nothing in this subsection (3) shall be construed in a manner to prohibit the publication of statistics relative to the aforementioned information when so classified as to prevent the identification of educators or pupils involved in said statistics.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), on or before July 1, 2004, and on or before July 1 each year thereafter, the department shall provide to the department of higher education a list of the persons initially licensed as educators during the preceding twelve months and, for each such person who completed an approved program of preparation provided by a Colorado institution of higher education, the name of the institution that provided the approved program of preparation, and a list of the persons who have held an educator license for two years as of the reporting date.

**Source:** L. 64: R&RE, p. 534, § 1. C.R.S. 1963: § 123-1-12. L. 2004: (3) amended, p. 382, § 2, effective April 8; (3) amended, p. 1284, § 14, effective May 28. L. 2008: (3)(a) amended, p. 1665, § 5, effective May 29.

**Editor's note:** Amendments to subsection (3) by Senate Bill 04-062 and House Bill 04-1104 were harmonized.

**Cross references:** For provisions concerning school records under the "Open Records Act", see part 2 of article 72 of title 24.

**22-2-112. Commissioner - duties.** (1) Subject to the supervision of the state board, the commissioner has the following duties:

(a) To advise the state board concerning the current operation and status of the public schools and upon other educational matters;

(b) To supply the state board with such information as it may require and to prepare for the board to transmit annually a report accounting to the governor and the house and senate committees on education for the efficient discharge of all responsibilities assigned by law or directive to the department, and to issue all publications of the department circulated in quantity outside the executive branch in accordance with the provisions of section 24-1-136, C.R.S.;

(c) To prepare and submit to the state board a budget for the department and to properly execute the approved budget in accordance with appropriations;

(d) To establish and maintain a system of personnel administration within the department;

(e) To cause all policies, rules, and regulations adopted by the state board to be duly executed;

(f) To serve as state librarian pursuant to section 24-90-104 (2), C.R.S.;

(g) To visit public schools and communities which most need his personal attendance for the purpose of stimulating and guiding public sentiment to education and diffusing by



public addresses and personal communication with parents, school officers, and teachers a knowledge of existing defects of and a knowledge of desirable improvements in the government, finance, curriculum of, and instruction in the public schools;

(h) To establish and maintain adequate statistical, academic performance, safety environment, and financial records of school districts, including records required by article 11 of this title;

(i) To cause to be reprinted annually laws enacted by the general assembly concerning education, in accordance with the provisions of section 24-1-136, C.R.S., and to furnish copies thereof to interested persons. All publishing costs therefor shall be paid out of the state public school fund pursuant to section 22-54-114 (5).

(j) To perform other duties as may be delegated to him by law or by the state board;

(k) To submit to the governor and the general assembly, not later than the first day of September of each year, a report which shall discuss educational issues in Colorado and such other subjects as the commissioner may deem appropriate. The commissioner shall also submit such fiscal, instructional, academic progress, and other information as may be required by the state board to reflect the quality of education in the state. Statistical data by school district regarding drop-out rates, teacher-pupil ratios, number of courses offered, teacher turnover rates, and reading and achievement scores will be available upon request.

(l) To prepare a manual setting forth simplified election procedures for use by the election judges in the district. He shall notify the superintendent of each district that such a manual is available and that copies will be furnished upon request and free of charge. When the school election laws have changed, he shall revise the manual to comply with the then existing laws. Such revisions may be made by inserts to the manual.

(m) To supervise, manage, and control the Colorado school for the deaf and the blind at Colorado Springs;

(n) To enter into an interagency agreement with the department of health care policy and financing and to promulgate such rules and regulations as may be necessary under the agreement to enable school districts, boards of cooperative services, and state educational institutions to enter into contracts and to receive federal matching funds for moneys spent in providing student health services as provided in section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(o) To comply with the duties set forth in article 11 of this title.

(2) In accordance with section 22-2-107 (1) (c), the commissioner shall establish requirements enabling residents of this state who are seventeen years of age or older or who are sixteen years of age and satisfy the requirements of section 22-33-104.7 to earn a high school equivalency certificate upon satisfaction of said requirements.

(3) Repealed.

(4) (a) The commissioner shall ensure that the department, subject to available appropriations, annually allocates moneys to school districts, district charter schools, and institute charter schools to reimburse them for the costs of administering basic skills placement or assessment tests pursuant to sections 22-32-109.5, 22-30.5-117, and 22-30.5-526, respectively, to students enrolled in grades nine through twelve. The department shall allocate moneys to offset the costs incurred in administering each of the test units only once per student while the student is enrolled in grades nine through twelve.

(b) The general assembly finds that, for purposes of section 17 of article IX of the state constitution, administering basic skills placement or assessment tests to students in grades nine through twelve is an accountable program to meet state academic standards and is a component of accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 64: R&RE, p. 535, § 1. C.R.S. 1963: § 123-1-13. L. 69: p. 1022, § 1. L. 75: (1)(l) added, p. 686, § 2, effective July 1. L. 77: (1)(m) added, p. 1090, § 1, effective July 1. L. 79: (1)(f) amended and (2) added, pp. 774, 992, §§ 1, 2, effective July 1. L. 83: (1)(b) and (1)(i) amended, p. 833, § 34, effective July 1. L. 84: (1)(k) R&RE, p. 580, § 1, effective April 5. L. 96: (1)(b) amended, p. 1234, § 70, effective August 7. L. 97: (1)(n) added, p. 1138, § 5, effective May 28. L. 98: (1)(o) added, p. 986, § 3, effective July 1. L. 2000: (1)(h) amended, p. 349, § 2, effective April 10. L. 2006: (1)(n)

amended, p. 2005, § 62, effective July 1. **L. 2007:** (1)(i) amended, p. 625, § 1, effective April 26; (3) added, p. 1065, § 3, effective May 23. **L. 2009:** (1)(h) amended, (SB 09-163), ch. 293, p. 1528, § 9, effective May 21. **L. 2012:** (4) added, (HB 12-1345), ch. 188, p. 730, § 20, effective May 19.

**Editor's note:** Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2008. (See L. 2007, p. 1065.)

**Cross references:** (1) For duties of the commissioner of education concerning information as to respect for the flag and instruction on the U.S. constitution, see §§ 22-1-106 and 22-1-109; for duties concerning the use of eye protective devices in schools, see § 22-3-104; for duties concerning special education, see article 20 of this title; for the duty to review comprehensive health education programs, see § 22-25-105; for duties concerning educational clinics for public school dropouts, see article 27 of this title; for duties relating to the organization of school districts, see article 30 of this title; for duties concerning the Colorado school for the deaf and the blind, see article 80 of this title.

(2) For the legislative declaration contained in the 1996 act amending subsection (1)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

(3) For the legislative declaration in the 2012 act adding subsection (4), see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-2-113. Commissioner - powers.** (1) Subject to the supervision of the state board, the commissioner has the following powers:

(a) To perform all duties which may be required by law;

(b) To issue instructions to school district officers and employees concerning the government of the public schools under their control;

(c) To prescribe forms and items to be included in reports submitted by school district officers and employees and other persons;

(d) To construe provisions of the school laws on questions submitted to him in writing by any school district officer or employee or other person. Said construction may be published in either memorandum form or in any periodical devoted to the interest of education with general distribution to the public schools.

(e) To cause to be prepared, printed, and distributed report forms, registers, curriculum and instructional guides, pamphlets, and other materials as may be beneficial to personnel and pupils of the public schools. All publishing costs therefor shall be paid out of the funds appropriated to the department on warrants of the controller covering vouchers approved by the commissioner. A reasonable fee may be charged for any such materials delivered to a person not in the service of a school district or enrolled as a pupil in the public schools thereof. All receipts from such fees shall be deposited to the credit of the general fund.

(f) To recover a penalty fee from current state payments to a school district, a board of cooperative services as defined in section 22-5-103 (2), or a group care facility or home as defined by the department in its regulations when a certification to the department of education by such district, board, facility, or home for the determination of state funding by the department is not supported by generally accepted accounting principles upon audit by the department. The penalty fee shall be determined by the commissioner, but in no event shall such fee be less than fifty dollars nor more than twenty thousand dollars per initial audit.

(g) (I) To recover an interest fee from current state payments to a school district, a board of cooperative services as defined in section 22-5-103 (2), or a group care facility or home as defined by the department in its rules when a certification to the department by such district, board, or facility, for the determination of state funding, results in an overpayment to the district, board, facility, or home by the state. The interest amount shall be computed on the amount of overpayment at a rate that is equal to the earnings on the treasury pooled funds for the previous fiscal year, beginning from the final settlement date of the audit. The interest fee shall be recovered in addition to the recovery of the amount of the overpayment.

(II) (A) Notwithstanding the provisions of subparagraph (I) of this paragraph (g), for audits that begin on or after July 1, 2007, if the department determines through an audit of a school district or a group care facility or home that an overpayment of state funding has



been made to the district, facility, or home due to an error in information submitted to the department, the commissioner shall not recover an interest fee from the district, facility, or home in addition to the amount of the overpayment if the district, facility, or home repays the overpayment within the period specified in sub-subparagraph (B) of this subparagraph (II).

(B) The period during which the commissioner shall not recover an interest fee pursuant to sub-subparagraph (A) of this subparagraph (II) shall be a period that is equal to the number of years and any fraction of a year between the settlement date of the audit in which the overpayment to the school district or group care facility or home was determined and the settlement date of the immediately preceding audit of the district, facility, or home. The period shall begin on the final settlement date of the audit in which the overpayment to the district, facility, or home was determined.

(C) If a school district or group care facility or home is unable to repay the total amount of the overpayment within the period specified in sub-subparagraph (B) of this subparagraph (II), the district, facility, or home and the department may negotiate an extension of the repayment period for the remaining amount of the overpayment; except that the commissioner shall recover the interest fee described in subparagraph (I) of this paragraph (g) on the remaining amount of the overpayment beginning on the day immediately following the expiration of the period specified in sub-subparagraph (B) of this subparagraph (II). The interest fee shall be recovered in addition to the recovery of the remaining amount of the overpayment.

(III) Notwithstanding any provision of subparagraph (I) or (II) of this paragraph (g) to the contrary, for the 2008-09 budget year, the commissioner may accept as repayment from a school district that has received an overpayment items for use by the department, including but not limited to lifetime on-line curriculum licenses, in the same value as the amount of the overpayment owed by the school district.

(h) To cooperate with local boards of education, pursuant to section 18-18-407 (2) (b), C.R.S., and make recommendations regarding the uniform implementation and furnishing of notice of the provisions of section 18-18-407 (2) (b), C.R.S.;

(i) To issue emergency orders concerning a charter school pursuant to section 22-30.5-703.

**Source:** L. 64: R&RE, p. 536, § 1. C.R.S. 1963: § 123-1-14. L. 87: (1)(f) and (1)(g) added, p. 824, § 1, effective April 22. L. 90: (1)(h) added, p. 990, § 4, effective April 16. L. 92: (1)(h) amended, p. 392, § 23, effective July 1. L. 2007: (1)(g) amended, p. 737, § 9, effective May 9. L. 2009: (1)(g)(III) added, (SB 09-256), ch. 294, p. 1563, § 25, effective May 21. L. 2010: (1)(i) added, (HB 10-1345), ch. 245, p. 1087, § 1, effective May 21.

**Cross references:** For power of commissioner of education to waive reporting requirements, see § 22-2-116.

#### ANNOTATION

**A county superintendent is not arbitrary, wilful, or capricious in obeying the laws of Colorado by refusing to follow an opinion of the attorney general and by following the contradictory opinion of the state commissioner of edu-**

cation on a question of school law. Sch. Dist. No. 1 v. Hastings, 122 Colo. 1, 220 P.2d 361 (1950) (decided prior to § 123-1-14, C.R.S. 1963, the earliest source of § 22-2-113).

**22-2-113.5. Educational programs for pupils in foster homes or placed by child placement agencies - study - repeal. (Repealed)**

**Source:** L. 96: Entire section added, p. 1799, § 22, effective June 4.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 96, p. 1799.)



**22-2-114. Department of education - special programs. (Repealed)**

**Source:** L. 85: Entire section added, p. 720, § 1, effective July 1.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 1987. (See L. 85, p. 720.)

**22-2-114.1. Dropout rates - collection of data on grades seven through twelve.**

(1) The general assembly hereby declares that the dropout rate indicates a waste of economic and human potential. Therefore a correct assessment of the number of students who fail to complete high school in the typical length of time is necessary in order to fully recognize and correct the problem.

(2) The state board of education shall develop and implement in cooperation with local boards of education a model student accounting method and data collection system on dropouts in grades seven through twelve, with results to be reported to the general assembly by January 1, 1988.

(2.5) to (3) (Deleted by amendment, L. 2010, (HB 10-1171), ch. 401, p. 1933, § 1, effective August 11, 2010.)

**Source:** L. 86: Entire section added, p. 799, § 1, effective April 3. L. 93: (3)(a) amended, p. 379, § 1, effective April 12. L. 94: Entire section amended and (2.7) added, pp. 615, 616, §§ 1, 2, effective July 1. L. 99: (3) amended, p. 1057, § 1, effective June 1. L. 2007: (3)(a) amended, p. 1087, § 10, effective July 1. L. 2010: Entire section amended, (HB 10-1171), ch. 401, p. 1933, § 1, effective August 11.

**22-2-115. Early childhood education program - study - report to general assembly. (Repealed)**

**Source:** L. 85: Entire section added, p. 726, § 1, effective July 1.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1986. (See L. 85, p. 726.)

**22-2-116. Additional power - waiver of reporting requirements - review of reporting requirements.**

(1) The commissioner may waive any requirements imposed by this title as to the reporting of data to the department or the state board by any school district which is eligible to receive the minimum amount of state moneys under the provisions of article 54 of this title, if the commissioner finds that any benefits from receiving such reports are outweighed by the district's increased administrative costs of reporting in light of its minimum share of state moneys.

(2) Repealed.

**Source:** L. 88: Entire section added, p. 809, § 3, effective January 1, 1989. L. 94: Entire section amended, p. 810, § 18, effective April 27. L. 2005: Entire section amended, p. 998, § 1, effective June 2. L. 2007: (2) repealed, p. 1064, § 2, effective May 23.

**22-2-117. Additional power - state board - waiver of requirements - rules.**

(1) (a) Upon application of the board of education of any school district, the state board, except as prohibited in paragraph (b) of this subsection (1), may waive any of the requirements imposed by this title or by rule promulgated by the state board. The state board shall grant the waiver if it determines that it would enhance educational opportunity and quality within the school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district. Any school district board of education that applies for a waiver pursuant to this section shall specify in such application the manner in which it shall

comply with the intent of the waived rules or statutes and shall be accountable to the state board for such compliance.

(b) The state board shall not waive any of the requirements specified in any of the following statutory provisions:

- (I) The “Public School Finance Act of 1994”, article 54 of this title;
- (II) The “Exceptional Children’s Educational Act”, article 20 of this title;
- (III) Any provision of part 5 of article 11 of this title pertaining to the data necessary for performance reports;
- (IV) Any provision of this title that relates to fingerprinting and criminal history record checks of educators and school personnel; or

(V) The “Children’s Internet Protection Act”, article 87 of this title.

(c) A principal of a public school may initiate a request for a waiver pursuant to this section and shall submit such request to the superintendent and the board of education of the school district in which the public school is located. Such waiver, if granted, shall be limited in application to the public school, unless otherwise designated by the school district. The school district may choose either to adopt such request and apply to the state board for a waiver pursuant to this section or not adopt such request.

(d) In addition to any requirements for a waiver application that are specified in this subsection (1), any application submitted by a school district that has a funded pupil count, as defined in section 22-54-103 (7), of three thousand or more pupils shall demonstrate that such application has the consent of a majority of the appropriate accountability committee, a majority of the affected licensed administrators, and a majority of the teachers of the affected school or district.

(1.5) Notwithstanding any provision of this section or any other provision of law, the state board shall not waive requirements contained in article 11 of this title or sections 22-7-409, 22-32-105, 22-32-109 (1) (bb) (I) and (2), 22-32-109.1 (2) (a), 22-32-146, and 22-33-104 (4).

(2) Prior to submitting an application for a waiver as provided in subsection (1) of this section, a school district board of education, in a public meeting including a public hearing, shall adopt a resolution stating the board’s intent to apply for a waiver and specifying the statutes and rules for which the board will request waivers. The school district board of education shall post notice of such public meeting in three public places within the district for a period of not less than thirty calendar days prior to such meeting, giving the time and location of such meeting and a description of the waiver request, and, if a newspaper is published within the county, shall publish such notice once each week for at least four weeks prior to the meeting in such newspaper. At least sixty days prior to such public meeting and hearing, the school district board of education shall meet with the school district accountability committee to consult with the committee concerning the intent to seek the waiver.

(3) (a) Any waiver made pursuant to the provisions of this section shall continue until such time as:

(I) The school district board of education that holds the waiver by resolution requests revocation of the waiver; or

(II) The state board receives evidence that constitutes good and just cause for revocation of the waiver, as determined by the state board.

(b) The state board may revoke a waiver granted pursuant to this section only by action taken in a public meeting and hearing.

(4) The provisions of this section shall not apply to any waiver requested by a charter school pursuant to sections 22-30.5-104 (6) and 22-30.5-105 (3). Waiver requests by a charter school shall be governed by the provisions of said sections.

(5) The state board shall promulgate such rules as are necessary to implement the provisions of this section regarding the waiver application process.

(6) Notwithstanding any provision of this section to the contrary, a school district that has been granted by the state board exclusive authority to charter schools within its geographic boundaries pursuant to section 22-30.5-504 shall not be required to demonstrate that it has obtained the consent of a majority of the appropriate accountability committee, a majority of the affected licensed administrators, and a majority of the teachers of the

affected school or district in order to apply for a waiver of any of the requirements imposed by this title or by rule promulgated by the state board; except that such consent shall be required for an application for a waiver from any provisions of article 9 or articles 60.5 to 64 of this title.

**Source:** **L. 89:** Entire section added, p. 946, § 1, effective April 17. **L. 93:** (4) amended, p. 1061, § 2, effective June 3. **L. 94:** (2) amended, p. 1380, § 5, effective May 25. **L. 96:** (3) repealed, p. 1233, § 66, effective August 7. **L. 97:** (1) amended, p. 460, § 3, effective August 6. **L. 98:** (4) repealed, p. 317, § 1, effective April 17. **L. 2000:** (1) amended and (1.5) added, pp. 369, 349, §§ 20, 3, effective April 10; entire section R&RE, p. 522, § 1, effective August 2; (1)(b) amended, p. 375, § 33, effective August 2. **L. 2001:** (1.5) amended, p. 1271, § 23, effective June 5; (1)(b)(III) amended, p. 1498, § 20, effective June 8. **L. 2003:** (1)(b) amended, p. 2515, § 3, effective June 5; (1)(b)(V) added, p. 2477, § 32, effective August 15. **L. 2004:** (6) added, p. 1617, § 3, effective July 1. **L. 2009:** (1)(b)(III) and (1.5) amended, (SB 09-163), ch. 293, p. 1529, § 10, effective May 21. **L. 2012:** (1.5) amended, (HB 12-1345), ch. 188, p. 747, § 34, effective May 19.

**Editor's note:** (1) Amendments to subsection (1) in Senate Bill 00-186 were superseded by House Bill 00-1040.

(2) Subsection (1)(b)(V) was originally numbered as (1)(b)(IV) in Senate Bill 03-326, but has been renumbered on revision for ease of location.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (1.5), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

## **22-2-118. Department of education - study of school district administration and staffing patterns. (Repealed)**

**Source:** **L. 89:** Entire section added, p. 965, § 11, effective June 7.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective February 15, 1990. (See L. 89, p. 965.)

**22-2-119. Department of education - inquiries concerning prospective employees - background investigation fee.** (1) When an inquiry is made by a board of education of a school district pursuant to the provisions of section 22-32-109.7 (1) or (1.5), by the governing board of a nonpublic school pursuant to the provisions of section 22-1-121, by the governing board of a charter school pursuant to the provisions of section 22-30.5-110.5, or by the governing board of an institute charter school pursuant to the provisions of section 22-30.5-511.5, concerning a prospective or current employee, the department shall provide the following information concerning such person:

(a) Whether according to the records of the department such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children; or

(III) A misdemeanor crime, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S.;

(b) (I) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information required to be provided to the department by the school district pursuant to the provisions of section 22-32-109.7 (3);



(II) The department of education shall not disclose to any prospective employer any information reported to the department from a school district pursuant to section 22-32-109.7 (3) unless and until the department confirms that the allegation resulted in a finding of a confirmed report of child abuse or neglect. The department shall request a check of the records and reports of child abuse or neglect maintained by the state department of human services pursuant to the provisions of section 19-1-307 (2) (I), C.R.S.

(III) If the department confirms that the allegation resulted in a finding of a confirmed report of child abuse or neglect and the report concerning such person is subsequently expunged pursuant to the provisions of section 19-3-313.5 (3) (f), C.R.S., such person may notify the department that the report has been expunged. If the department verifies that the report has been expunged, the department shall remove such information about the person from the files kept by the department.

(b.5) Whether the person's educator license or certification has ever been denied, suspended, revoked, or annulled in this state or in another state, including but not limited to any information gained as a result of an inquiry by the department to a national teacher information clearinghouse;

(c) If a holder of a license or authorization pursuant to the provisions of article 60.5 of this title, whether such person's certificate, letter of authorization, authorization, or license has ever been annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2) (b) as said section existed prior to July 1, 1999, or pursuant to article 60.5 of this title following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(2) Except for authorized inquiries made by boards of education, governing boards of nonpublic schools, governing boards of charter schools, or governing boards of institute charter schools, the department shall consider information held by the department to be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases such information in violation of this subsection (2) shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received by the department concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

(3) (a) When providing the information required in subsection (1) of this section, the department shall provide the information within the following timelines:

(I) For information that the department possesses at the time of the request, the department shall provide the information no later than ten business days following the receipt of the inquiry;

(II) For information that the department must obtain by a background check, the department shall provide the information no later than ten business days following the receipt of the information.

(b) If provisions of this subsection (3) increase the costs for the department and the department increases educator licensing fees to address the increased costs, the increase shall be no greater than necessary and shall be included in the department's annual budget request to the joint budget committee.

(4) (a) A school district shall verify the results of a fingerprint-based criminal history record check performed for the department on a school employee or applicant, and the Colorado bureau of investigation shall share the information from the initial fingerprint-based criminal history record check with the requesting entity.

(b) When the Colorado bureau of investigation provides the department with an update regarding a school employee who was previously subject to a fingerprint-based criminal history record check, the department shall provide that update to each school district and charter school in the state. Each school district and charter school shall cross-check its employee list with the provided update and take appropriate action, if necessary.

(5) The department may collect a background investigation fee in responding to inquiries pursuant to this section submitted regarding a person who does not hold an educator license issued pursuant to article 60.5 of this title. The state board, by rule, shall establish the amount of the background investigation fee to generate an amount of revenue that approximates the direct and indirect costs incurred by the department in responding to

inquiries pursuant to this section regarding unlicensed persons. The department shall transmit the fees collected pursuant to this section to the state treasurer who shall credit the fees to the educator licensure cash fund, created pursuant to section 22-60.5-112.

**Source:** **L. 90:** Entire section added, p. 1028, § 17, effective July 1. **L. 93:** IP(1) amended, p. 611, § 1, effective April 30; (1)(b) amended, p. 634, § 2, effective July 1. **L. 96:** (1)(b)(II) amended, p. 1174, § 11, effective January 1, 1997. **L. 99:** IP(1) and (1)(a) amended, p. 1102, § 3, effective July 1. **L. 2000:** (1)(c) amended, p. 1849, § 40, effective August 2. **L. 2003:** IP(1)(a) and (1)(a)(II) amended and (1)(a)(III) added, p. 2515, § 4, effective June 5; (1)(b)(II), (1)(b)(III), and (2) amended, p. 1408, § 15, effective January 1, 2004. **L. 2008:** IP(1) and (2) amended and (1)(b.5) and (5) added, pp. 1659, 1660, §§ 1, 2, effective May 29; (3) and (4) added, p. 2224, § 1, effective June 5.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsections (1)(b)(II), (1)(b)(III), and (2), see section 1 of chapter 196, Session Laws of Colorado 2003.

**22-2-119.5. Department of education - duty to report - convictions.** (1) Upon receiving a report from a court pursuant to section 13-1-130, C.R.S., that a person has been convicted of, pled guilty or nolo contendere to, or received a deferred sentence for an offense specified in subsection (2) of this section, the department shall immediately report such fact to the school district that is the current employer or the last known employer of the person.

(2) The provisions of this section shall apply to the following offenses:

(a) A felony;

(b) A misdemeanor offense specified in section 18-7-302 (2) (b), C.R.S., or part 4 of article 3, part 4 of article 6, or part 4 of article 7 of title 18, C.R.S., or any counterpart municipal law of this state;

(c) A misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S.

**Source:** **L. 2003:** Entire section added, p. 2515, § 5, effective June 5.

**22-2-120. Department of education - study of optimum school size and the feasibility of school district reorganization. (Repealed)**

**Source:** **L. 90:** Entire section added, p. 1085, § 48, effective May 31.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective January 1, 1992. (See L. 90, p. 1085.)

**22-2-121. Department of education - funding for national academic award winners. (Repealed)**

**Source:** **L. 97:** Entire section added, p. 1058, § 1, effective May 27. **L. 2006:** Entire section repealed, p. 596, § 5, effective August 7.

**22-2-121.5. National academic contest fund - balance of moneys - transfer.** On June 30, 2011, the state treasurer shall transfer the balance of moneys in the national academic contest fund, as said fund existed prior to August 7, 2006, to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** **L. 2011:** Entire section added, (SB 11-218), ch. 151, p. 525, § 1, effective May 5.

**22-2-122. Grants to schools and school districts.** (1) (a) In preparing the application forms to be submitted by school districts or public schools when applying for grant



moneys, except as otherwise required by statute, the department shall not require information from public schools or school districts which has been previously submitted to the department; except that this prohibition shall not apply to annual updates of information sought by the department.

(b) In preparing said application forms and in reviewing submitted applications, the department shall utilize a database of pertinent data previously received from, or otherwise obtained regarding, schools and school districts, so as to minimize the need to require schools and school districts to send duplicative information.

(2) Whenever, as part of a grant program, the department or a school or school district is required to prepare an evaluation of the effectiveness of the services provided using the grant moneys, the department shall compile the evaluations and make such evaluations readily available to all schools and school districts upon request. Any costs associated with the compilation and availability of such reports shall be paid from the amount appropriated to the department for costs incurred in administering such grant programs.

(3) (a) For each budget year, the department shall allocate to the boards of cooperative services established pursuant to article 5 of this title that provide a wide range of services described in section 22-5-118 to their member school districts, or school districts with student populations of less than four thousand students, an amount equal to one percent of the amount appropriated to all education grant programs for that fiscal year, or two hundred fifty thousand dollars, whichever is less. The amount allocated to the boards of cooperative services pursuant to this subsection (3) shall be taken from the amounts appropriated to all education grant programs. In the event the department allocates two hundred fifty thousand dollars, such amount shall be taken from each education grant program in the same proportion that the amount appropriated for that fiscal year to the education grant program bears to the total amount appropriated for that fiscal year to all education grant programs.

(b) The department shall proportionately divide the moneys allocated pursuant to this subsection (3) among the boards of cooperative services described in paragraph (a) of this subsection (3) on a per school district basis, based on the total number of school districts that have student populations of less than four thousand students and are members of boards of cooperative services that shall receive moneys pursuant to this subsection (3).

(c) The boards of cooperative services that receive moneys pursuant to this subsection (3) shall only use such moneys to assist member school districts and schools in applying for grants from education grant programs. One or more boards of cooperative services may use the moneys allocated pursuant to this subsection (3) jointly to provide services to member school districts from more than one board of cooperative services.

**Source:** L. 2002: Entire section added, p. 326, § 1, effective August 7. L. 2003: (1)(a), (2), (3)(a), and (3)(c) amended, p. 2140, § 44, effective May 22.

## **22-2-123. Eligible facilities education task force - creation - membership - duties - repeal. (Repealed)**

**Source:** L. 2002: Entire section added, p. 907, § 2, effective July 1. L. 2003: (3) amended, p. 2006, § 81, effective May 22.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective January 1, 2004. (See L. 2002, p. 907.)

**22-2-124. Family literacy education grant program - rules.** (1) This section shall be known and may be cited as the "Colorado Family Literacy Act of 2002".

(2) As used in this section, unless the context otherwise requires:

(a) "Adult literacy education" means an educational program designed to provide basic academic skills and training in mathematics, writing, reading, and language, and may include English literacy instruction.

(b) "Competence in the English language" means English language comprehension, speaking, reading, and writing skills.



(c) "Eligible adult" means a person who meets the following criteria:

- (I) Is at least seventeen years of age;
- (II) Is not enrolled in a public or private secondary or postsecondary school; and
- (III) (A) Lacks a high school diploma or its equivalent; or  
(B) Is in need of English language instruction; or  
(C) Lacks sufficient mastery of basic educational skills necessary to enable the person to function effectively as a partner in the educational development of his or her children.

(d) "Eligible parent" means an eligible adult who has one or more children in need of family literacy education, and who can certify to the department of education that each said child is enrolled in a public elementary or secondary school in the state. "Eligible parent" includes a legal guardian, grandparent, stepparent, aunt, uncle, sibling, or other person with whom the child lives on a full-time basis or who has been designated by a parent, legal guardian, or court-appointed adult to act in place of the parent.

(e) "English literacy" means instruction that is designed to assist individuals of limited English proficiency to achieve competence in the English language, thus allowing them to understand and navigate governmental, educational, and workplace systems.

(f) "Family literacy education" means services that are of sufficient intensity and duration to make sustainable changes in a family and that integrate all of the following:

- (I) Interactive literacy activities between an eligible parent and his or her child;
- (II) Training of an eligible parent to be the primary teacher for his or her child and to be a full partner in the education of his or her child;
- (III) Parent literacy training that leads to economic self-sufficiency; and
- (IV) Age-appropriate education to prepare participating children for success in school.

(g) "Intergenerational services" means activities that link adult literacy programs to home and school settings that are of sufficient intensity and duration to promote literacy development in the family.

(h) "Literacy" means an individual's ability to read, write, and speak English and to compute and solve problems at levels of proficiency necessary to function on the job and in society in order to achieve one's goals and to develop one's knowledge and potential.

(i) "Local education provider" means an institution or organization which may be any of the following:

(I) An educational entity recognized by the department as providing appropriate and effective family literacy education programs;

- (II) A community college;
- (III) A community-based organization of demonstrated effectiveness;
- (IV) A library;
- (V) A literacy council or other literacy institute;
- (VI) A school district or local educational agency;
- (VII) A nonprofit agency;
- (VIII) A nonprofit institution, other than one described in this paragraph (i), having the ability to provide literacy services to families and adults;

(IX) A business or business association, other than one described in this paragraph (i), having the ability to provide literacy services to families and adults either on-site or off-site;

(X) A volunteer literacy organization of demonstrated effectiveness;

(XI) A work force board, as defined in section 8-83-203, C.R.S., that oversees a work force investment program described in the "Colorado Work Force Investment Act", part 2 of article 83 of title 8, C.R.S.;

(XII) A one-stop partner, as described in section 8-83-216, C.R.S., under the "Colorado Work Force Investment Act", part 2 of article 83 of title 8, C.R.S.;

(XIII) A consortia of entities described in this paragraph (i).

(j) "Support services" means those services necessary to enable eligible parents and their children and other eligible adults to participate in and benefit from a family literacy or an adult literacy education program.

(3) There shall be established within the department the family literacy education grant program. Local education providers may apply to the department for grants to provide the following services:

- (a) Family literacy education for eligible parents and their children;

(b) Adult literacy education for eligible adults, including but not limited to intergenerational services; and

(c) English language literacy education for adults needing English language instruction, including but not limited to intergenerational services.

(4) Grant recipients may use the funds awarded pursuant to this section for the following activities:

(a) Training for paid and volunteer instructors of family literacy and adult literacy education;

(b) Staffing literacy education programs by providing salaries, wages, benefits, books, and other instructional materials;

(c) Administering family literacy education programs;

(d) Providing support services necessary to enable individuals to participate in and benefit from the family literacy education grant program; and

(e) Outreach activities to enroll eligible parents and their children and to recruit volunteer tutors to support instructors.

(5) The state board shall adopt such procedures, rules, and forms as may be necessary to implement the family literacy education grant program. Applications shall be made to the department in such form and at such time as the state board may prescribe. Grant moneys received under the family literacy education grant program may be used in conjunction with funds received from any other public or private source.

(6) The state board shall consider, at a minimum, the following factors when evaluating applications for grants through the family literacy education grant program:

(a) The percentage of children in the schools in the areas to be served whose parents lack a high school diploma;

(b) The percentage of eligible adults expected to be enrolled in family literacy or adult literacy education programs funded by the grant who are members of minority groups;

(c) The percentage of eligible adults in any local area to be served using grant moneys who do not have certificates of graduation from a secondary school and who are not currently enrolled in family literacy or adult literacy education programs;

(d) The percentage of eligible parents with limited English skills; and

(e) (I) The percentage of eligible parents and their children expected to be enrolled in family literacy or adult literacy programs funded by the grant who are receiving either state or federal public assistance; or

(II) The percentage of eligible parents in the area to be served who are unemployed workers.

(7) (a) The department may audit the records and accounts of family literacy education providers relating to grants awarded pursuant to this section. A local education provider shall make the records and accounts available to the department upon request.

(b) Upon completion of any family literacy education program funded, in part, by a grant awarded pursuant to this section, each local education provider shall report to the department the same information on the state-funded program as is required to be reported by Title II of the federal "Workforce Investment Act of 1998", as amended, 20 U.S.C. sec. 9201 et seq., for federally funded programs, along with data concerning the children's education component. The department may request such additional information as may be required by rule of the state board.

(c) Repealed.

(8) (a) The department is authorized to receive and expend gifts, donations, or grants of any kind from any public or private entity to carry out the purposes of this section, subject to the terms and conditions under which given; except that no gift, donation, or grant shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law.

(b) Any gifts, grants, or donations received pursuant to paragraph (a) of this subsection (8) shall be transmitted to the state treasurer who shall credit the same to the family literacy education fund, which fund is hereby created in the state treasury. The family literacy education fund shall consist of any moneys credited thereto pursuant to this subsection (8) and any moneys that may be appropriated thereto by the general assembly. All investment earnings derived from the deposit and investment of the moneys in the family literacy



education fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the family literacy education fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(9) (a) It is the intent of the general assembly that:

(I) Repealed. / (Deleted by amendment, L. 2007, p. 1406, § 2, effective May 30, 2007.)

(II) To the extent that family literacy services provided pursuant to this section comply with federal requirements, the department actively pursue all federal moneys that may be available through:

(A) The federal “No Child Left Behind Act of 2001”, including but not limited to the William F. Goodling Even Start family literacy programs, 20 U.S.C. sec. 6381 et seq.; and

(B) Title II of the federal “Workforce Investment Act of 1998”, as amended, 20 U.S.C. sec. 9201 et seq.

(b) (Deleted by amendment, L. 2007, p. 1406, § 2, effective May 30, 2007.)

**Source:** **L. 2002:** Entire section added, p. 814, § 2, effective May 30. **L. 2003:** (9) amended, p. 2166, § 1, effective June 3. **L. 2006:** (9)(b)(I) amended, p. 597, § 6, effective August 7; (2)(c)(I) amended, p. 1213, § 6, effective July 1, 2007. **L. 2007:** (7)(c) repealed, p. 756, § 3, effective May 10; (9)(a)(I) repealed, p. 1038, § 10, effective May 22; (9) amended, p. 1406, § 2, effective May 30. **L. 2012:** (2)(i)(XI) and (2)(i)(XII) amended, (HB 12-1120), ch. 27, p. 107, § 21, effective June 1.

**Editor’s note:** (1) This section was originally numbered as 22-2-122 in House Bill 02-1303 but has been renumbered on revision for ease of location.

(2) Amendments to subsection (9) by House Bill 07-1271 and Senate Bill 07-192 were harmonized.

(3) The effective date for amendments to subsections (2)(i)(XI) and (2)(i)(XII) by House Bill 12-1120 (chapter 27, Session Laws of Colorado 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of Colorado 2012.)

**Cross references:** For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 224, Session Laws of Colorado 2002. For the legislative declaration contained in the 2006 act amending subsection (2)(c)(I), see section 1 of chapter 265, Session Laws of Colorado 2006. For the legislative declaration contained in the 2007 act amending subsection (9), see section 1 of chapter 331, Session Laws of Colorado 2007.

**22-2-125. Loan program for capital improvements in growth school districts - use of public school fund.** (1) For purposes of this section:

(a) “Capital improvement” means:

(I) The acquisition or purchase of buildings or grounds;

(II) The enlargement, improvement, remodeling, repairing, or making of additions to any school building;

(III) The construction or erection of school buildings;

(IV) The equipping or furnishing of any school building, but only in conjunction with a construction project for a new building or for an addition to an existing building or in conjunction with a project for substantial remodeling, improvement, or repair of an existing building; or

(V) The improvement of school grounds.

(b) “Growth district” means any district whose supplemental pupil enrollment exceeded the district’s pupil enrollment for the most recently completed budget year by a number greater than one percent of the district’s pupil enrollment for that budget year or fifty pupils, whichever is less.

(2) As authorized under the provisions of section 3 of article IX of the state constitution, the state treasurer may make loans to growth districts for the purpose of funding capital improvements. The procedures for the making of loans shall be determined by the state treasurer subject to the following:

(a) No loan shall be authorized for any capital improvement that has not been approved by the state board in accordance with subsection (3) of this section.



(b) No loan shall be authorized in an amount other than the amount determined by the state board unless the state board approves the change in the loan amount; except that the state board shall not authorize an amount of a loan for any growth district that exceeds ten percent of the amount of the public school fund that the state treasurer has determined may be loaned out in accordance with subsection (5) of this section.

(c) No loan shall be authorized unless the debt is approved by the voters of the growth district.

(d) No loan shall be authorized unless the method for repayment of the loan is specified in the application. If the loan is to be repaid from a property tax mill levy, such levy must be approved at the same election that authorized the creation of the debt.

(e) The loan shall be made as soon as possible upon approval of the loan by the state board.

(3) (a) On and after January 1, 2003, a growth district may apply to the state board for a loan of public school fund moneys to be used by the growth district to pay for one or more capital improvements. The amount of the loan requested shall be an amount equal to the full cost of the capital improvement or a lesser amount that in combination with other financial resources of the growth district shall allow the capital improvement to be completed. The loan application shall be in a form prescribed by the state board and shall include:

(I) A description of the capital improvement for which a loan is sought and a statement of the reasons why the capital improvement is necessary;

(II) A time line for completion of the capital improvement;

(III) A building permit for the capital improvement, if applicable;

(IV) A statement of the amount of the loan requested together with an estimate of the cost of the capital improvement prepared by a qualified builder or contractor. If the amount of the loan requested differs from the amount of the estimate of the cost of the capital improvement, the growth district shall also provide an explanation for the difference.

(V) A plan for repaying the loan, including a proposed repayment schedule;

(VI) A statement of the amount of moneys from other sources, if any, that the growth district intends to use to help defray the costs of the capital improvement; and

(VII) Any additional information that the state board may reasonably require, by rules promulgated in accordance with article 4 of title 24, C.R.S., to help it determine whether or not to approve the loan application.

(b) To ensure that a growth district applying for a loan can move forward with any capital improvements quickly or develop alternative financing strategies without undue delay, the state board shall approve or disapprove a loan application no later than forty-five days after the application is submitted. To ensure that loan applications can be processed efficiently, the state board may delegate the authority to approve loan applications to a designated employee of the department. The state board or its designee shall consider all of the information in an application before approving or disapproving the application and a growth district whose loan application is denied shall have no right to further review by the state board or its designee.

(4) The state board shall establish a repayment schedule that shall require the growth district to make monthly payments on the loan and fully repay all moneys borrowed within ten years after the date a loan is made available pursuant to subsection (2) of this section.

(5) The state treasurer shall determine the amount of the public school fund that may be loaned out pursuant to this section and the rate of interest to be charged on loans. The state treasurer shall charge interest on loans made at a rate designed to match the rate of interest derived from the deposit and investment of moneys in the public school fund. Payments of the principal of and interest on all loans shall be returned to the fund.

(6) The general assembly shall appropriate money from the general fund to restore moneys to the public school fund, together with interest, that are lost by reason of the failure of any school district to repay a loan made pursuant to this section.

**Source: L. 2002:** Entire section added, p. 1742, § 15, effective June 7.

**Editor's note:** This section was originally numbered as 22-2-122 in House Bill 02-1349 but has been renumbered on revision for ease of location.

**22-2-126. On-line education programs - study - report - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1781, § 46, effective June 7.

**Editor's note:** (1) This section was originally numbered as § 22-2-122 in House Bill 02-1349 but was renumbered on revision for ease of location.

(2) Subsection (5) provided for the repeal of this section, effective January 1, 2003. (See L. 2002, p. 1781.)

**22-2-127. Financial literacy - resource bank - technical assistance.** (1) As used in this section, "financial literacy" means knowledge of personal finances that is sufficient to enable a person to manage savings, investment, and checking accounts, to design and maintain a household budget, to manage personal debt, to understand consumer credit and finance, to manage personal credit options, and to understand and select among short-term and long-term investment options.

(2) The state board shall create and maintain a resource bank of materials pertaining to financial literacy. At a minimum, the resource bank shall include national model standards for financial literacy, model programs of instruction for financial literacy, model financial literacy curricula, and model materials for professional educator development in teaching financial literacy. The resource bank shall also include a list of the available mathematics and economics textbooks that contain substantive provisions on personal finance, including personal budgeting, credit, debt management, and similar personal finance topics. The state board shall ensure that the materials included in the resource bank represent the best practices in the teaching of financial literacy. The materials in the resource bank shall be available to school districts not later than March 15, 2005.

(3) Upon the request of a school district or a charter school, the department shall provide technical assistance to the school district or charter school in designing a curriculum of financial literacy.

(4) The department shall implement the provisions of this section to the fullest degree possible within existing resources. The department shall contract with one or more entities for the implementation of this section.

(5) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, creation of a resource bank of materials pertaining to financial literacy is an important element of an accountable program to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(6) (a) The department is authorized to accept and expend any gifts, grants, or donations that may be available from any private or public sources for the implementation of this section. All private and public funds received through gifts, grants, or donations pursuant to this subsection (6) shall be transmitted to the state treasurer, who shall credit the same to the financial literacy cash fund, which fund is hereby created and referred to in this subsection (6) as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this section. Any moneys in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Except as otherwise provided in paragraph (b) of this subsection (6), any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(b) On June 30, 2011, the state treasurer shall transfer the balance of moneys in the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2004:** Entire section added, p. 1773, § 1, effective June 4. **L. 2011:** (6) amended, (SB 11-218), ch. 151, p. 525, § 2, effective May 5.



**22-2-128. Department of education - reciprocal agreements with adjacent states - report.** (1) The department shall, to the extent that each state that is adjacent to Colorado is agreeable, negotiate a reciprocal agreement with each such state to allow a child who is a resident of one state to attend a public school in the other state without paying tuition when the geographic conditions or distances are such that it would be impracticable for the child to attend the schools of his or her own state.

(2) On or before January 31, 2007, the department shall submit to the education committees of the house of representatives and the senate, or any successor committees, a report that includes but need not be limited to a list of the states that are adjacent to Colorado that have entered into a reciprocal agreement with Colorado pursuant to subsection (1) of this section.

**Source: L. 2006:** Entire section added, p. 662, § 5, effective April 28.

**22-2-129. Department of education - approved supplemental education services providers - list.** (1) As used in this section, unless the context otherwise requires, “supplemental education services” means tutoring services and other academic enrichment services required to be provided to eligible students pursuant to 20 U.S.C. sec. 6316 (e) and that are provided to students in addition to the standard curriculum of instruction provided during the school day.

(2) The department shall annually issue a request for proposals through which providers of supplemental education services may apply to the department to be included on the list of approved supplemental education services providers. The department shall review the applications and include on the list the applying providers that meet the criteria specified in subsection (3) of this section. The department shall annually post on its web site the list of approved supplemental education services providers for use by school districts in selecting providers of supplemental education services to meet the requirements of 20 U.S.C. sec. 6316 (e).

(3) To be included on the list of approved providers of supplemental education services, a provider shall:

(a) Demonstrate that each tutor employed by the provider meets the requirements specified for paraprofessionals under 20 U.S.C. sec. 6319 (c);

(b) Ensure that all personnel employed by the provider who interact with students comply with the fingerprinting and criminal history record check requirements specified for educator licensees in section 22-60.5-103;

(c) In providing advertising and informational materials to parents and students, refrain from making any representations as to whether a school district shall pay all or any portion of the cost of the supplemental education services provided by the provider; and

(d) Comply with any additional requirements specified by the department in the annual request for proposals.

**Source: L. 2007:** Entire section added, p. 408, § 1, effective August 3.

**22-2-130. Supplemental on-line education grant program - legislative declaration - definitions - creation - eligibility - award - fund.** (1) The general assembly finds that:

(a) On-line education courses that are supplemental to the education program provided by a school district, charter school, or BOCES are a valuable resource for schools because they allow a school district, charter school, or BOCES to provide a much richer, more varied curriculum of courses for students at all levels of achievement. Further, enrollment in such courses decreases the need for college remediation and helps prepare students to meet higher education admission guidelines.

(b) Although small or rural school districts, charter schools, and BOCES may have the greatest need for supplemental on-line education, these school districts, charter schools, and BOCES may face financial or technical barriers when attempting to provide supplemental on-line education courses to their students. Often these barriers are conquerable but out of reach for these school districts, charter schools, and BOCES.



(b.5) Educational programs provided for students in out-of-home placement or through day treatment facilities are generally small and have difficulty accessing resources or employing a large number of teachers. Supplemental on-line education courses are especially helpful and necessary for facility schools to enable them to provide a much wider variety of courses and to help their students meet graduation standards.

(c) It is therefore in the best interests of the state to help small or rural school districts, charter schools, BOCES, and facility schools provide supplemental on-line education courses to their students by allowing these school districts, charter schools, facility schools, and BOCES to apply for grants to help them overcome their financial and technical barriers.

(2) As used in this section, unless the context otherwise requires:

(a) "BOCES" means a board of cooperative services created pursuant to article 5 of this title, all member school districts of which are eligible school districts.

(b) "Eligible charter school" means:

(I) A charter school that is authorized by an eligible school district pursuant to part 1 of article 30.5 of this title and that does not operate an on-line program or as an on-line school; or

(II) An institute charter school that is authorized pursuant to part 5 of article 30.5 of this title, that enrolls fewer than three thousand students, as determined by the institute charter school's pupil enrollment certified by the state charter school institute on behalf of the institute charter school to the state board pursuant to section 22-30.5-513 (3) (a), and that does not operate an on-line program or as an on-line school.

(c) "Eligible school district" means a school district that does not export an on-line program or on-line school to students receiving the program at a location outside of the school district's geographic boundaries and that enrolls fewer than three thousand students, as determined by the school district's pupil enrollment certified to the state board pursuant to section 22-54-112.

(c.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(d) "Grant program" means the supplemental on-line education grant program created in subsection (3) of this section.

(e) "Provider" means an entity that sells supplemental on-line education courses that are taught by employees of the provider who are teachers licensed in Colorado pursuant to article 60.5 of this title.

(f) "Supplemental on-line education course" means an education course that is:

(I) Taught by a teacher who is licensed pursuant to article 60.5 of this title;

(II) Delivered via an internet format to one or more students at a location that is remote from the delivery point; and

(III) Purchased by an eligible school district, eligible charter school, BOCES, or facility school from a provider to augment the education program provided by the eligible school district, eligible charter school, BOCES, or facility school.

(3) There is hereby created the supplemental on-line education grant program to assist an eligible school district, an eligible charter school, a BOCES, or a facility school in providing supplemental on-line education courses to students. Subject to available appropriations, the state board shall award grants pursuant to this section to assist eligible school districts, eligible charter schools, BOCES, and facility schools in removing financial and technical barriers to providing supplemental on-line education courses. Grants awarded pursuant to this section shall be used for one or more of the following purposes:

(a) As additional reimbursement for the cost of purchasing supplemental on-line education courses; or

(b) To increase the eligible school district's, eligible charter school's, BOCES's, or facility school's ability to access supplemental on-line education courses by:

(I) Providing technical equipment or hiring technical specialists to audit and configure computer networks;

(II) Providing staff development and training for onsite personnel; or

(III) Providing financial assistance to help hire site coordinators or other personnel needed to facilitate on-line access.

(4) An eligible school district, an eligible charter school, a BOCES, or a facility school may apply to the department, in accordance with the procedures and time frames adopted by rule of the state board pursuant to subsection (5) of this section, to receive moneys through the grant program. The department shall administer the grant program as provided in this section.

(5) The state board shall promulgate rules specifying the procedures and time frames for applying for a grant, the form of the grant application, the information to be provided by the applicant, and any criteria for awarding grants that are in addition to those specified in paragraph (b) of subsection (6) of this section.

(6) (a) The department shall review each grant application received pursuant to this section and shall make recommendations to the state board concerning whether the grant should be awarded and the amount of the grant.

(b) In selecting grant recipients, the state board shall give priority to grant applications from eligible school districts, eligible charter schools, BOCES, or facility schools that have been financially or technologically unable to provide supplemental on-line education courses in the past and that demonstrate the greatest need for a grant to be able to begin providing supplemental on-line education courses. In addition, the state board shall consider:

(I) The degree to which students enrolled in the eligible school district or eligible charter school, or in a school operated by a BOCES or in a facility school require supplemental on-line education courses to be able to meet the higher education admission standards adopted by the Colorado commission on higher education; and

(II) Other revenue sources available to the eligible school district, eligible charter school, BOCES, or facility school to assist in overcoming the financial and technological barriers to providing supplemental on-line education programs.

(c) A grant awarded pursuant to this section shall not exceed five thousand dollars in a fiscal year. An eligible school district, an eligible charter school, a BOCES, or a facility school may receive grants in consecutive years.

(7) (a) The general assembly shall annually appropriate to the department of education, from federal mineral leasing revenues transferred to the state public school fund pursuant to section 34-63-102, C.R.S., and section 22-54-114 (1), an amount to be used for purposes of this section.

(b) The department may expend up to two percent of the moneys annually appropriated for the grant program to offset the direct and indirect costs incurred in implementing the grant program pursuant to this section.

(8) Repealed.

**Source:** L. 2007: Entire section added, p. 1096, § 2, effective May 23. L. 2008: (1)(b.5) and (2)(c.5) added and (1)(c), (2)(f)(III), (3), (4), (6)(b), and (6)(c) amended, pp. 1382, 1383, §§ 5, 6, effective May 27. L. 2010: (8) repealed, (HB 10-1037), ch. 43, p. 169, § 1, effective March 29. L. 2012: (2)(b) and (2)(c) amended, (HB 12-1240), ch. 258, p. 1313, § 21, effective June 4.

## **22-2-131. Data technology system - comprehensive review - requirements - report - repeal. (Repealed)**

**Source:** L. 2007: Entire section added, p. 1056, § 2, effective July 1.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 2008. (See L. 2007, p. 1056.)

**22-2-132. Department of education - career and technical education credential - rules.** (1) In accordance with the state plans for occupational education adopted by the state board for community colleges and occupational education, pursuant to section 23-60-304, C.R.S., the department shall issue credentials to teachers of occupational subjects, teacher-trainers, supervisors, directors, occupational counseling specialists, and



others having responsibilities in connection with occupational education at the secondary level. Prior to issuing a credential pursuant to this section, the department shall determine that the person applying for the credential meets the minimum qualifications established by the state board for community colleges and occupational education pursuant to section 23-60-304 (3) (a), C.R.S. A person who is required by law to obtain an educator license or authorization pursuant to article 60.5 of this title may obtain a credential pursuant to this section in addition to, but not in lieu of, the required educator license or authorization.

(2) Notwithstanding the provisions of subsection (1) of this section, the department may enter into a memorandum of understanding with the state board for community colleges and occupational education pursuant to which the state board for community colleges and occupational education, prior to July 1, 2009, may issue credentials to teachers of occupational subjects, teacher-trainers, supervisors, directors, occupational counseling specialists, and others having responsibilities in connection with occupational education at the secondary level as provided in this section.

(3) The state board of education shall promulgate such rules as may be necessary for the implementation of this section. At a minimum, the rules shall establish the amount of and procedures for the department to collect a fee for the issuance of a credential pursuant to this section and section 22-60.5-112.

**Source: L. 2008:** Entire section added, p. 909, § 1, effective May 20.

**22-2-133. Assessment and identification of students with literacy challenges including dyslexia - training and technical assistance - collaboration with higher education - report.** (1) On or before August 1, 2008, as part of its responsibility for education standards and practice, the department may make available technical assistance and training concerning issues faced by students with literacy challenges, including dyslexia, to school districts, administrative units as defined in section 22-20-103 (1), residential treatment facilities, correctional facilities, and other local education agencies throughout the state. The provision of any technical assistance and training pursuant to this subsection (1) shall not preclude the department from using federal funds to implement such technical assistance and training. Any technical assistance and training provided shall include, but need not be limited to, the areas of awareness, assessment, identification, and evidence-based progress monitoring, and shall include scientifically based interventions to address the needs of students with literacy challenges, including dyslexia. Any technical assistance and training provided shall represent a tiered continuum of intensity for intervention consistent with the response to intervention model that school districts are required to implement no later than August 15, 2009, pursuant to rules adopted by the department.

(2) The department is encouraged to coordinate any technical assistance and training provided with current best practices and work occurring in teacher preparation programs at institutions of higher education. Where appropriate, the department is encouraged to provide technical assistance and training to school districts, administrative units, residential treatment facilities, correctional facilities, and local education agencies in a coordinated effort with teacher preparation programs at institutions of higher education. The department and institutions of higher education are encouraged to work collaboratively to develop or affirm minimum standards for teacher preparation programs in the areas of literacy assessment and instructional skills, including dyslexia awareness, identification, and remediation for general and special education.

(3) On or before January 30, 2009, and on or before January 30 each year thereafter, the department shall report to the state board of education and to the education committees of the house of representatives and the senate, or any successor committees, concerning the activities and status of any technical assistance and training made available pursuant to this section.

(4) As used in this section, unless the context otherwise requires:

(a) "Literacy challenge" means a situation where a student is experiencing difficulty in reading in phonemic awareness, phonics, vocabulary, fluency, or comprehension.

(b) "Response to intervention" means a model for education developed pursuant to rules adopted pursuant to the "Exceptional Children's Educational Act", article 20 of this



title, that promotes a well-integrated system connecting general, compensatory, gifted, and special education in providing high-quality, standards-based instruction and intervention that is matched to a student's academic, social-emotional, and behavioral needs.

**Source:** **L. 2008:** Entire section added, p. 1418, § 1, effective August 5. **L. 2011:** (2) amended, (SB 11-245), ch. 201, p. 848, § 5, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-2-134. Unique student identifier - early childhood education - rules.** (1) On or before September 1, 2008, the commissioner, in cooperation with the executive director of the department of human services, shall convene a working group to review the issues pertaining to the assignment of a uniquely identifying student number to children who receive state-subsidized or federally subsidized early childhood education services, including but not limited to services provided through the child care development block grant and head start. In convening the working group, the commissioner and the executive director of the department of human services shall include representatives from the department of education and the department of human services and representatives of school districts and other interested stakeholders.

(2) The working group shall adopt protocols by which the department of education, the department of human services, school districts, charter schools, the early childhood councils, as described in section 26-6.5-103.3, C.R.S., and the early childhood care and education councils, as defined in section 26-6.5-101.5 (6), C.R.S., shall cooperate in assigning the uniquely identifying student numbers. The working group shall also consider methods by which to encourage and facilitate the assignment of uniquely identifying student numbers to students who are receiving early childhood education services that are not subsidized by state or federal funding.

(3) On or before February 1, 2009, the commissioner shall report to the head of the office of information technology the findings and protocols adopted by the working group. The head of the office of information technology shall incorporate the findings and protocols of the working group into the report made to the governor and the state, veterans, and military affairs committees of the house of representatives and the senate, or any successor committees, pursuant to section 24-37.5-707, C.R.S.

(4) Following adoption of the protocols, the state board of education shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the assignment of uniquely identifying student numbers to students receiving early childhood education services. The state board shall collaborate with the state board of human services in promulgating rules as provided in this subsection (4) to ensure that they do not conflict with any rules promulgated by the state board of human services pursuant to section 26-6-121, C.R.S.

**Source:** **L. 2008:** Entire section added, p. 783, § 2, effective August 5.

**22-2-135. Food allergy and anaphylaxis management - rules.** (1) This section shall be known and may be cited as the "Colorado School Children's Food Allergy and Anaphylaxis Management Act".

(2) As used in this section, unless the context otherwise requires, "appropriate staff" means employees of a school whom the principal or equivalent executive in consultation with the school nurse of the school determines to be appropriate recipients of emergency anaphylaxis treatment training, which employees shall include, but need not be limited to, employees who are directly involved during the school day with a student who has a known food allergy.

(3) (a) On or before January 1, 2010, the state board of education, in consultation with the department of public health and environment, shall promulgate rules for the manage-

ment of food allergies and anaphylaxis among students enrolled in the public schools of the state. The rules shall include, but need not be limited to, the following:

(I) Reasonable accommodations for communication between schools and emergency medical services, including instructions for emergency medical responders;

(II) Reasonable accommodations to reduce the risk of students' exposure to agents that may cause anaphylaxis, including but not limited to exposure that may occur in classrooms, cafeterias, and common areas and during extracurricular activities, field trips, school-sponsored programs occurring before and after regular school hours, and other school-sponsored programs;

(III) The provision of emergency anaphylaxis treatment training for appropriate staff to prepare them to respond appropriately in the event that a student suffers anaphylaxis as a result of an allergic reaction to food, which training shall include but need not be limited to training in the administration of self-injectable epinephrine; and

(IV) Procedures to ensure the availability of a student's self-injectable epinephrine to faculty and administrative staff of the school in the event that a student suffers anaphylaxis and requires emergency medical treatment.

(b) Prior to the beginning of each school year, each school district shall provide notice to a parent or legal guardian of each student enrolled in a school of the school district of the policy adopted by the school district pursuant to section 22-32-139. The notice shall include the standard form developed by the department of public health and environment pursuant to section 25-1.5-109, C.R.S., to allow the parent or legal guardian of a student with a known food allergy to provide the following information to the school's administration:

(I) Documentation regarding the diagnosis and history of the student's food allergy;

(II) Identification of all foods to which the student is known to be allergic;

(III) Identification of any medication that has been prescribed for the student for the treatment of a food allergy or anaphylaxis;

(IV) Any specific signs or symptoms that may indicate the student is having an allergic reaction to a food;

(V) Emergency treatment procedures to employ in the event that the student suffers an allergic reaction to food;

(VI) The names and telephone numbers of persons whom the administration of the student's school should contact in addition to emergency medical personnel in the event that the student suffers an allergic reaction to food; and

(VII) The name, telephone number, and signature of the student's primary health care provider.

(c) The notice required by paragraph (b) of this subsection (3) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student's school a supply of the medication.

**Source:** L. 2009: Entire section added, (SB 09-226), ch. 245, p. 1103, § 2, effective August 5. L. 2011: (3)(c) amended, (SB 11-012), ch. 62, p. 163, § 3, effective March 25.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-2-136. Additional duty - state board - individual career and academic plans - standards - rules.** (1) On or before February 1, 2010, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., to establish standards for individual career and academic plans for students enrolled in the public schools in the state. An individual career and academic plan shall be designed to assist a student and his or her parent or legal guardian in exploring the postsecondary career and educational opportunities available to the student, aligning course work and curriculum, applying to postsecondary education institutions, securing financial aid, and ultimately entering the workforce.

(2) In establishing the standards for individual career and academic plans, the state board shall ensure, at a minimum, that:



(a) Each individual career and academic plan includes a career planning and guidance component and a portfolio that reflects, at a minimum:

(I) The student's efforts in exploring careers, including interest surveys that the student completes;

(II) The student's academic progress, including the courses taken, any remediation or credit recovery, and any concurrent enrollment credits earned;

(III) For school districts and charter schools that choose to administer the basic skills placement or assessment tests, the student's scores on the basic skills placement or assessment tests administered pursuant to section 22-30.5-117, 22-30.5-526, or 22-32-109.5 (4), any intervention plan created for the student pursuant to said sections, and the student's progress in meeting the intervention plan;

(IV) The student's progress in visual arts and performing arts courses;

(V) The student's experiences in contextual and service learning;

(VI) The student's college applications and resume, as they are prepared and submitted; and

(VII) The student's postsecondary studies as the student progresses;

(b) Each individual career and academic plan is accessible to educators, students, and parents; and

(c) Each public school, in assisting students and parents in creating and maintaining the individual career and academic plans, is in compliance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

**Source:** **L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1557, § 17, effective May 21. **L. 2010:** (2)(a)(II.5) added, (HB 10-1273), ch. 233, p. 1021, § 4, effective May 18. **L. 2012:** (2)(a) amended, (HB 12-1345), ch. 188, p. 728, § 17, effective May 19.

**Cross references:** For the legislative declaration in the 2010 act adding subsection (2)(a)(II.5), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsection (2)(a), see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-2-137. State schools - legislative declaration - feasibility study - authority to contract - funding.** (1) The general assembly finds that some states have created state and residential schools to provide educational programs and student support services for students who are at risk of academic failure. The general assembly further finds that early reports of results achieved by some of these schools indicate that this may be a promising approach to reducing the dropout rate, closing the achievement gaps, and helping to raise the level of academic achievement among students in the state. The general assembly therefore finds that it is appropriate for the commissioner to study the feasibility of creating one or more state schools in Colorado, which may include a residential component or a specific student population.

(2) Beginning in July 2009, the commissioner shall study the feasibility of operating one or more state schools to serve students who are in need of greater academic support and who may be at risk of academic failure. At a minimum, the feasibility study shall address and make recommendations concerning the following issues:

(a) The goals that a state school would be designed to achieve and a method for measuring the level of achievement of those goals. In addressing this issue, the commissioner shall provide an overview of the state and residential schools operating in other states, the goals that they are designed to achieve, and the degree to which they have achieved or are achieving those goals.

(b) The appropriate student population to be served by a state school and the manner of selecting students, the number of state schools that should be considered, and appropriate locations for state schools;

(c) The governance structure and funding for a state school, including the optimal level of per pupil funding, funding for capital construction needs, and potential public and private funding sources;

(d) The appropriate curriculum for a state school, including which grade levels a state school would serve, the length of the school day and school year for which a state school



would operate, and whether a state school should include a focus on specific subject matter areas; and

(e) The types of student and family support services that a state school would provide, including the manner in which a state school would collaborate with state and local agencies in providing these services.

(3) On or before February 1, 2010, the department shall submit to the education committees of the house of representatives and the senate the feasibility study described in subsection (2) of this section for operating one or more state schools and any legislative recommendations the department may have pertaining to the creation of one or more state schools.

(4) (a) Following completion of the feasibility study, if the commissioner concludes that the creation and operation of state residential schools would be beneficial to the state, the commissioner may contract for the creation and operation of one or more state residential schools to provide educational services to students who are at risk of academic failure. Any state residential school operated pursuant to this section shall provide an educational program focused on mathematics and science.

(b) If the commissioner does not contract for state residential schools as authorized in paragraph (a) of this subsection (4), the commissioner may provide technical assistance to school districts and public schools to address the needs of students who are at risk of academic failure by improving the availability and quality of secondary-level mathematics and science curricula.

(5) (a) It is the intent of the general assembly that up to three million dollars be appropriated to the commissioner to expend for the implementation of subsection (4) of this section. The general assembly finds that, for purposes of section 17 of article IX of the state constitution, the creation of state residential schools and the provision of technical assistance to improve secondary-level mathematics and science curricula as provided in subsection (4) of this section are important elements of accountable programs to meet state academic standards, and the general assembly may therefore appropriate moneys from the state education fund created in section 17 (4) of article IX of the state constitution for the implementation of subsection (4) of this section.

(b) In addition to the funding provided pursuant to paragraph (a) of this subsection (5), if the commissioner contracts for the creation and operation of one or more state residential schools, the department shall provide funding for said schools by withholding moneys from the state share of total program funding payable to the district of residence of each student who enrolls in a state residential school. The amount withheld shall be equal to the amount of the school district's per pupil revenue for the applicable budget year multiplied by the number of students who reside in the school district and are enrolled in the state residential school as of the pupil enrollment count day of the applicable budget year. A student who enrolls in a state residential school shall be counted in the pupil enrollment of the student's school district of residence for purposes of this paragraph (b). The department shall adopt guidelines as necessary for the implementation of this paragraph (b).

(c) The commissioner is encouraged to apply federal moneys received pursuant to the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, to the extent allowed to offset the costs incurred in implementing this section. The commissioner is authorized to seek and accept additional public or private gifts, grants, or donations for the implementation of this section.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1561, § 24, effective May 21. **L. 2012:** (5)(b) amended, (HB 12-1090), ch. 44, p. 150, § 3, effective March 22.

**22-2-138. State environmental education plan - fund created.** (1) Subject to the provisions of subsection (3) of this section, the department, in consultation with the department of natural resources, shall develop and the state board shall adopt a state plan for environmental education. At a minimum, the state plan for environmental education shall address strengthening the reach and coordination of environmental education in public schools and providing to educators professional development in environmental education. The department shall ensure that the state plan for environmental education complies with

any requirements imposed by federal law or by regulations adopted by the federal department of education.

(2) (a) The department is authorized to seek, accept, and expend public or private gifts, grants, or donations for the implementation of this section; except that the department may not accept a gift, grant, or donation for the implementation of this section that is subject to conditions that are inconsistent with this section or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the state environmental education fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with implementing this section.

(b) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) The department shall implement the provisions of subsection (1) of this section only if the department receives public or private gifts, grants, or donations in an amount it deems sufficient to offset the costs incurred in creating and adopting the state plan for environmental education.

**Source: L. 2010:** Entire section added, (HB 10-1131), ch. 332, p. 1532, § 4, effective May 27.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 332, Session Laws of Colorado 2010.

**22-2-139. Memorandum of understanding - notification of risk - rules.** (1) On or before July 1, 2011, the department of human services and the department of education shall enter into a memorandum of understanding concerning the enrollment of students in the public school system from a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S. The memorandum of understanding shall include, but need not be limited to:

(a) A consistent and uniform approach to notification and appropriate and allowable data-sharing about students, including but not limited to medical, mental health, sociological, and scholastic achievement, within the limits of state and federal privacy and confidentiality law, between school districts, charter schools, institute charter schools, and county departments of social services for the purposes of collaboration in the placement of students pursuant to this section and section 22-20-108, better facilitation of the creation of transition plans for students, and ensuring the safety of the people in the school community;

(b) A plan for utilizing existing state and federal data and any existing information-sharing activities;

(c) A plan for determining accountability and collecting data concerning the implementation of the notifications and invitation required pursuant to this section and a mechanism by which school districts and the state charter school institute shall report the aggregate data to the department of human services and department of education on or before February 15, 2012, and on or before February 15 each year thereafter. The data to report shall include, but need not be limited to:

(I) The number of placements occurring in a school year;

(II) The number of emergency placements occurring in a school year;

(III) The types of placements from which the students are transitioning;

(IV) The educational setting into which the student is being placed; and

(V) Demographic information of students, including but not limited to age, race, gender, and ethnicity;

(d) A process for determining information sharing and collaboration for placement of students pursuant to sections 22-20-108 and 26-1-138, C.R.S.;



(e) Recommendations for an approach to sharing data that conforms with the interdepartmental data protocol established pursuant to section 24-37.5-704, C.R.S., and that is in compliance with all state and federal laws, rules, and regulations concerning the privacy of information;

(f) Identification of training and professional development needs associated with implementing information sharing between responsible entities and funding sources that could be utilized for this purpose; and

(g) Consideration of recommendations made by existing working groups or projects that have been involved with information sharing or technology relating to information sharing among multiple entities as it relates to students transitioning back into public schools. A report of these recommendations shall be provided to the department of human services, the state board of human services, the department of education, and the state board of education prior to the final adoption of the memorandum of understanding.

(2) Beginning August 15, 2010, a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., that is transferring a student to a public school shall notify the appropriate school district child welfare education liaison, designated pursuant to section 22-32-138 (2) (a), of the pending enrollment in a public school of a student who:

(a) Is transferring to a public school from a state-licensed day treatment facility licensed by the department of human services pursuant to section 26-6-102 (2.5), C.R.S., facility school as defined in section 22-2-402 (1), or hospital, licensed or certified pursuant to section 25-3-101, C.R.S.; and

(b) Has been determined by the state-licensed day treatment facility, the facility school, the hospital licensed or certified pursuant to section 25-3-101, C.R.S., or the court to be a risk to himself or herself or the community within the twelve months prior to the proposed transfer.

(3) This section shall apply only to a hospital licensed or certified pursuant to section 25-3-301, C.R.S., that is providing inpatient acute care or psychiatric services for a student for more than ten days and if there is actual knowledge that the student will attend an identified public school within sixty days after discharge from the hospital. For purposes of this subsection (3), information shared with the department of human services, county department of social services, or child education welfare liaison shall be shared only for a student who has been deemed to be a risk to himself or herself or the community within the twelve months prior to discharge.

(4) The notification required in subsection (2) of this section shall be made at least ten calendar days prior to the student's transition from the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., and subsequent enrollment in a public school and shall include an invitation to the child welfare education liaison, or his or her designee, to participate in the development of a transition plan for the student. The information provided to the child welfare education liaison shall include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the school district in meeting the student's needs and ensuring a successful transition. If the transitioning student is in the custody of the department of human services or a county department of social services, the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., shall also provide the notification to the department of human services.

(5) If a change of placement is required for the safety of the student or if a court, the department of human services, or a county department of social services makes a placement change with fewer than ten calendar days notice, the responsible state or county department of human services or social services shall provide information to the child welfare education liaison, designated pursuant to section 22-32-138 (2) (a), of the receiving school district, charter school, or institute charter school within five calendar days following the student's placement. The information provided to the child welfare education liaison shall include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be



successful in the public school setting, which information would assist the district in meeting the student's needs and ensuring a successful transition.

(6) The responsible county department of social services and the receiving school district, charter school, or institute charter school shall cooperate to ensure that an appropriate placement including educational services is made pursuant to this section and sections 19-1-115.5, C.R.S., 22-20-108, and 22-32-138, as applicable.

(7) Within the confidentiality and privacy limits of state and federal law, the responsible county department of social services or the school district, charter school, institute charter school, or facility school shall provide information about the student to assist the receiving entity in determining an appropriate educational placement for the student.

(8) Nothing in this section shall alter the rights and obligations of the department of education, the department of human services, a county department of social services, or a school district, as such rights and obligations are set forth in this title; 20 U.S.C. sec. 1400 et seq.; 29 U.S.C. sec. 701 et seq.; 42 U.S.C. sec. 11431 et seq.; and 42 U.S.C. sec. 675, as amended by the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008", Pub.L. 110-351.

(9) The state board of education may promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., concerning the implementation of this section, including but not limited to rules regarding notification and sharing of information as described in subsection (1) of this section.

**Source: L. 2010:** Entire section added, (HB 10-1274), ch. 271, p. 1245, § 2, effective May 25.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 271, Session Laws of Colorado 2010.

**22-2-140. Digital learning study - legislative declaration - definitions - notice of funding through gifts, grants, and donations - repeal.** (1) The general assembly finds that:

(a) The significant advances in digital learning technologies that have occurred in the past five years suggest many promising strategies for improving public education if these technologies are effectively integrated into the public education system;

(b) A high-quality education system is necessary to enable the state to maintain a well-educated citizenry and attract and support business and industrial development within the state to stabilize and grow the state's economy;

(c) Increasing the use of digital learning technologies in public schools has the potential to increase high-quality education and decrease the costs of public education, helping school districts, particularly small, rural school districts, meet the needs of all their students;

(d) To close achievement gaps, increase graduation rates, and prepare students to succeed in the twenty-first century workforce, public schools must provide a twenty-first century educational experience that encourages innovation and alternative methods of education and provides high-quality options for all students in Colorado;

(e) It is in the best interests of the state to study how to effectively integrate digital learning technologies into public education, the advantages and disadvantages of this integration, the costs and benefits of accomplishing this integration, and strategies for using digital technology to help the public schools of the state better serve all students.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Blended learning" means combining on-line learning with other modes of instructional delivery including on-site instruction at a public school or at a learning center as defined in section 22-30.7-102 (4). "Blended learning" involves combining the traditional, in-person delivery of education services with the delivery of education services using an on-line or computer-based environment that provides some degree of student control over time, place, and pace.

(b) "Digital learning" means any type of learning that is facilitated by technology.

(c) "On-line learning" means instruction via a web-based education delivery system that includes software to provide a structured learning environment. "On-line learning"

may be teacher-led education that takes place over the internet while the teacher and student are separated geographically. "On-line learning" includes, but is not limited to, an on-line program, as defined in section 22-30.7-102 (9) and a multi-district program, as defined in section 22-30.7-102 (6).

(d) "Study" means the study of digital learning in Colorado that the department commissions pursuant to subsection (3) of this section.

(e) "Supplemental on-line course" means an education course that is:

(I) Delivered via an internet format to one or more students at a location that is remote from the delivery point; and

(II) Purchased by a school district, board of cooperative services, or public school from a provider to augment the education program provided by the school district, board of cooperative services, or public school.

(3) (a) No later than ninety days after receiving sufficient moneys to implement this section, the department of education shall commission a study of digital learning in Colorado, including how to effectively integrate digital learning into public schools throughout the state, how to make high-quality digital content and learning available to all students, and the costs of integrating digital learning into the statewide system of public education. At a minimum, the study shall address the following issues, including the degree to which they are already addressed in Colorado, and any recommended actions, at both the local and state levels, to address the issues and effectively integrate digital learning into the statewide system of public education:

(I) Universal student eligibility for and access to digital learning;

(II) The ability of students in the public education system to customize their education using digital content through a digital learning provider;

(III) The ability of students to demonstrate competency based on a standardized assessment;

(IV) The quality of the digital content, instructional materials, and on-line learning and blended learning courses that are available to students and strategies for measuring, monitoring, and improving quality;

(V) The quality of the digital learning instruction available to students and the degree to which teachers are adequately prepared to assist students with digital learning;

(VI) Student access to multiple, high-quality digital learning providers from which to select on-line learning or blended learning courses or content;

(VII) Methods for ensuring that the content and instruction provided through digital learning is high quality, as measured by student academic growth and performance;

(VIII) The financial benefits and impacts to school districts, including funding for digital learning using a model that creates incentives for performance, options, and innovation;

(IX) The infrastructure required to support digital learning and ensure consistent availability throughout the state;

(X) The mechanisms other states use to provide funding at the state level and the local level for digital learning;

(XI) The manner in which other states have addressed the integration of digital learning into their public school systems;

(XII) The extent to which the accountability measures that the state applies to all public schools, including achievement on statewide assessments, academic growth, closing the achievement gap, and postsecondary and workforce readiness, are appropriate and sufficient to measure the performance of on-line schools; and

(XIII) Protocols for transferring the credits that a student earns by completing a supplemental on-line course or while enrolled in a full-time on-line school to a school district or public school in which the student subsequently enrolls.

(b) In conducting the study and making recommendations, the selected entity shall also review the state statutes and rules concerning digital learning and recommend appropriate changes.

(4) The department shall select a Colorado-based entity with experience in studying public education issues in the state to complete the study. The department shall not select an entity that is a provider of digital learning technologies or services or that would



otherwise be in a position to profit monetarily from any recommendations that may be included in the study report. The department is not subject to the requirements of the "Procurement Code", articles 101 to 112 of title 24, C.R.S., in selecting the entity to complete the study. No later than July 1, 2012, the department shall report in writing to the state board of education, the governor, and the education committees of the house of representatives and the senate, or any successor committees, the name of the entity commissioned to conduct the study.

(5) (a) The department is not required to solicit moneys for the implementation of this section, but the department may accept and expend gifts, grants, or donations from private or public sources for the purposes of this section; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The department shall not implement this section until it receives sufficient moneys in gifts, grants, or donations to complete the study.

(b) (I) In accepting a gift, grant, or donation, the department shall notify the legislative council staff when it has received adequate moneys through gifts, grants, or donations to complete the study and shall include in the notification the information specified in section 24-75-1303 (3), C.R.S.

(II) This paragraph (b) is repealed, effective July 1, 2015.

(c) Notwithstanding any provision of this section to the contrary, the department is not required to implement this section until it receives sufficient moneys to implement this section.

(6) The department shall submit the completed study to the state board of education, the governor, and the education committees of the house of representatives and the senate, or any successor committees, no later than January 31, 2013.

(7) This section is repealed, effective July 1, 2013.

**Source: L. 2012:** Entire section added, (HB 12-1124), ch. 211, p. 909, § 1, effective May 24.

**22-2-141. Early literacy assessment tool - request for proposals - software - hardware - training - distribution - legislative declaration.** (1) (a) By October 1, 2012, the department shall issue a request for proposals for the purchase of an early literacy assessment tool that teachers may use to obtain real-time assessments of the reading skill levels of students enrolled in kindergarten and first, second, and third grades and, based on the assessment results, generate intervention plans and materials.

(b) At a minimum, the request for proposals shall include the purchase of:

(I) Software that, at a minimum:

(A) Provides individualized assessments with immediate results;

(B) Stores and analyzes assessments results, recommends activities that are aligned with the assessment results, and assists in tracking student performance and identifying strategies to improve student performance;

(C) Provides student grouping recommendations based on the assessment scores and provides proposed lesson plans on a short-term cycle; and

(D) Assists in generating and populating individualized plans to improve students' reading skills; and

(II) Training in using the software for teachers or other personnel selected by each local education provider.

(c) The request for proposals shall include the purchase of a sufficient number of software licenses for each local education provider in the state to use the early literacy assessment tool in all of its kindergarten and first-, second-, and third-grade classes; except that the department may draft the contract to phase in the requirements of this paragraph (c) over multiple budget years based on available appropriations.

(2) The department shall select from among the responses received and enter into a contract for the purchase of software licenses and training no later than March 1, 2013. In negotiating the terms of the contract, the department shall include performance measures, which may include student outcomes, as conditions affecting the amounts payable under the contract.



(3) (a) As soon as practicable after entering into the contract, the department shall notify the local education providers and provide information explaining:

(I) The software licenses purchased;

(II) The availability of training in the use of the software including dates, times, and locations; and

(III) The procedures and timelines by which each local education provider may apply to receive the software licenses and training to implement the early literacy assessment tool.

(b) Based on the level of available appropriations, the department shall select the local education providers who will receive the early literacy assessment tool, including the training, from among those that apply. In selecting among the applicants, the department shall:

(I) Select local education providers from various regions of the state and of varying student population size;

(II) Give preference to local education providers with the highest percentages of kindergarten and first-, second-, and third-grade students who are below grade level expectations in reading; and

(III) Give preference to local education providers with the highest percentages of schools that are eligible to receive moneys under Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq.

(c) A local education provider that is selected to receive the early literacy assessment tool in one budget year is not required to reapply in subsequent budget years. The department shall, to the extent possible within available appropriations, annually increase the number of local education providers that receive the early literacy assessment tool.

(d) The department may choose to provide the early literacy assessment tool only to those schools of a selected school district that are eligible to receive moneys under Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq.

(4) During the 2014 regular legislative session and during the 2016 regular legislative session, the department shall submit to the governor's office, the joint budget committee, and the education committees of the house of representatives and the senate, or any successor committees, a report that includes, but need not be limited to, the following information:

(a) The percentage of students enrolled in kindergarten and first, second, and third grades throughout the state that are receiving services using the early literacy assessment tool;

(b) The local education providers that have received the early literacy assessment tool;

(c) The improvements, if any, in the reading skill levels of students who received or are receiving services using the early literacy assessment tool; and

(d) The amount of appropriations required to purchase an adequate number of software licenses to enable the local education providers in the state to use the early literacy assessment tool in all of the kindergarten and first-, second-, and third-grade classes in the state.

(5) As used in this section, "local education provider" means a school district; a charter school that enrolls students in kindergarten and first, second, and third grades; and a public school operated by a board of cooperative services that enrolls students in kindergarten and first, second, and third grades.

(6) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, purchasing an early literacy assessment tool as described in this section for the use of local education providers is an important element of accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 719, § 7, effective May 19.

## PART 2

## SCHOLASTIC ACHIEVEMENT

**22-2-201 to 22-2-203. (Repealed)**

**Source: L. 84:** Entire part repealed, p. 581, § 1, effective February 17.

**Editor's note:** This part 2 was numbered as article 27 of chapter 123 in C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## PART 3

## DATA REPORTING AND TECHNOLOGY

**22-2-301. Short title.** This part 3 shall be known and may be cited as the "Data Reporting and Technology Act".

**Source: L. 2007:** Entire part added, p. 1059, § 1, effective May 23.

**22-2-302. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Pursuant to state statute and rules of the state board, school districts are required to submit extensive and duplicative data at different times throughout the year or to different divisions within the department of education;

(b) Reporting requirements are frequently placed in statute or rule and are not revisited after their initial adoption. Often, these requirements cease over time to have a relevant use or purpose but are still required to be reported to the department.

(c) School districts recognize the value of collecting and submitting data that will be used to track student achievement, to qualify for state funds, or to support accountability for student achievement or compliance measures but often find that the staff time required to prepare reports and submit required data under federal and state statutes and rules takes human and capital resources that could be better spent on providing student instruction;

(d) The department works to make data reporting productive and meaningful but faces its own internal challenges in terms of funding, adequate staffing levels, and the ability to overhaul antiquated data technology systems;

(e) The elementary and secondary education system in Colorado spends considerable amounts of money maintaining multiple, often out-of-date, computer systems for data collection and transmission. Due to the lack of a single statewide data system, data often cannot be accessed, even when acting in compliance with federal privacy restraints, by others within the department, school districts seeking comparisons with other districts for best practices, or researchers and foundations seeking to conduct research on the Colorado public school system and its students.

(2) It is therefore the intent of the general assembly in enacting this part 3 to achieve the following purposes:

(a) To improve the collection of data by streamlining the submission and reporting of data;

(b) To create shared goals and shared expectations for data collection and technology for elementary and secondary education in Colorado;

(c) To require school districts and public schools to submit data that is relevant to student achievement and will enhance and improve the manner in which school districts and public schools provide and evaluate student instruction;

(d) To explore the possibility of implementing a single statewide education data collection system with the purpose of reducing the manpower and cost of submitting required data to the department; and



(e) To deploy the single statewide education data collection system as a system of data exchange that is based on automatic file exchanges rather than manual processes requiring personnel to upload electronic files via messaging, web uploads, or other file transfer methods requiring human intervention.

**Source: L. 2007:** Entire part added, p. 1059, § 1, effective May 23.

**22-2-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) “Commissioner” means the commissioner of education appointed pursuant to section 1 of article IX of the state constitution.

(2) “Current data technology system” means the data technology system or systems in use by the department as of May 23, 2007.

(3) “Data dictionary” means an essential component of data management adopted by the department pursuant to section 22-2-305 that defines all of the data elements the department collects from school districts and public schools and describes the methods by which the department collects the data through the single statewide data collection system.

(4) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) “EDAC” means the education data advisory committee created pursuant to section 22-2-304.

(6) “Public school” means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(7) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2007:** Entire part added, p. 1060, § 1, effective May 23.

**22-2-304. Education data advisory committee - creation - duties - repeal.** (1) The state board shall designate at least five volunteer school districts and two volunteer boards of cooperative services and a volunteer charter school, that are representative of the state as to pupil size and population, to send representatives to form a voluntary committee, to be known as the education data advisory committee. The EDAC shall work with the department to review school district data reporting requirements and make recommendations as provided in this section.

(2) The EDAC shall:

(a) Review the statutory and regulatory data reporting requirements applicable to school districts and public schools and determine whether the benefits derived from the reports are outweighed by the increased administrative costs incurred by the school districts and public schools in preparing and submitting the reports;

(b) Identify those statutory and regulatory data reporting requirements that are duplicative or obsolete and may be combined, eliminated, or otherwise streamlined;

(c) Review each data reporting request made to school districts and public schools and notify school districts and public schools that the request is mandatory because it is required by statute or rule, is required to acquire a benefit because a statute or rule requires a school district or public school that chooses to seek or receive a specified governmental benefit to report the data, or is voluntary because it is not specifically required by a statute or rule;

(d) Review all proposed statutory and regulatory data reporting requirements, whether proposed in state or federal legislation or in rules, and, to the extent practicable prior to final adoption, inform the general assembly or the enacting state or federal agency of the estimated cost to the school districts and public schools of complying with the proposed statutory and regulatory data reporting requirements and make recommendations to the general assembly or to the enacting state or federal agency concerning whether the proposed requirements are already included in existing law or regulation and whether the proposed requirements are necessary and appropriate;



(e) Advise the department on the impact of data practices and technology on school districts and public schools;

(f) Periodically review the rules for implementing the federal “Family Educational Rights and Privacy Act of 1974”, 20 U.S.C. sec. 1232g, and recommend to the state board an interpretation of said act that will facilitate the exchange and sharing of student information to the greatest extent possible in compliance with the federal regulations for implementing said act; and

(g) Review the processes and timing for collecting student demographic data and make recommendations to the state board for efficiently updating the data as necessary.

(3) (a) The EDAC shall annually, or more often if necessary, make recommendations to the state board and to the appropriate legislative committees of reference based on the subject matter of the recommendation for the repeal or amendment of statutory and regulatory data reporting requirements that the EDAC has identified as duplicative, obsolete, or inefficient.

(b) Repealed.

(4) The EDAC shall identify those reporting requirements that may be consolidated into a single report or a single submission for purposes of streamlining data submission for school districts and public schools.

(5) As used in this section, “statutory and regulatory data reporting requirements” includes all data reporting requirements that apply to school districts and public schools and that are imposed by federal or state statute or by rule of a federal or state agency, including but not limited to the data reporting requirements imposed by the department of human services, the department of public health and environment, and the department of health care policy and financing.

(6) (a) This section is repealed, effective July 1, 2017.

(b) Prior to such repeal, the EDAC shall be reviewed as provided in section 2-3-1203, C.R.S.

**Source:** L. 2007: Entire part added, p. 1061, § 1, effective May 23. L. 2009: Entire section amended, (HB 09-1214), ch. 198, p. 887, § 1, effective April 30. L. 2010: (2)(c), (2)(e), and (2)(f) amended and (2)(g) added, (HB 10-1171), ch. 401, p. 1934, § 4, effective August 11.

**Editor’s note:** Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective July 1, 2010. (See L. 2009, p. 887.)

## **22-2-305. Data dictionary - legislative declaration - creation - contents - report.**

(1) (a) The general assembly finds that there is a need for consistency in electronic data submission protocols and requirements to allow school districts and public schools to submit data for multiple reports in one transaction. Under the existing data submission system, school districts and public schools are often forced to report data that is known to be incorrect because of an existing inability to correct or resubmit data through the current data technology system. The general assembly finds that the priority in data collection and submission must be the efficient collection and use of accurate, relevant data.

(b) The general assembly finds therefore that, with the creation and implementation of a data dictionary, the department may bring consistency and greater accuracy to the data elements collected from school districts and public schools and increase the efficiency of education data submission and collection by not collecting the same data elements more often than necessary.

(2) (a) The department shall develop and distribute to the school districts and public schools a data dictionary to define the data the department will collect and the methods and protocols by which school districts and public schools will submit the data. At a minimum, the data dictionary shall include the following items:

(I) A map of the current data collection requirements, including the definition of each data element, when each data element is collected, identification of the external reports for which each data element is used, and identification of the method by which each data element is collected;

(II) A description of the format for data submission, acceptable values in data submission, the available options for dealing with data fields for which the submitting school district or public school does not have information, and logical comparisons to prior reports;

(III) Identification of data relationships;

(IV) Data element tables; and

(V) Identification of data element locations within data access tools.

(b) In developing the data dictionary, the department shall seek and apply input from school districts, public schools, and the EDAC. In addition, the department shall ensure that the data elements included in the data dictionary are aligned with the descriptions and definitions of data elements that are used by national education organizations such as the federal department of education and other organizations that set national education standards and ratings.

(3) On or before August 1, 2007, the department shall report the status of the data dictionary to the state board, the education committees of the senate and house of representatives, or any successor committees, the governor, school districts, and the EDAC. At a minimum, the report shall include:

(a) A description of how many school districts and public schools were involved in the process of creating the data dictionary, the extent to which the EDAC was involved in the process, and the manner of the school districts', public schools', and the EDAC's involvement;

(b) An explanation of the department's methods and considerations in creating the data dictionary, including the extent to which the department considered models from other states;

(c) An explanation of the manner in which school districts and public schools will access the data dictionary; and

(d) The method by and frequency with which the department plans to review and update the data dictionary.

(4) The department shall ensure that the data dictionary is fully operational and available for use on or before October 1, 2007.

(5) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, the creation and implementation of the data dictionary pursuant to this section is an important element of accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2007:** Entire part added, p. 1062, § 1, effective May 23.

**22-2-306. Advance notice - legislative declaration - data collection - data submission changes - web site update - submission windows.** (1) The general assembly finds that it is imperative that school districts and public schools receive adequate advance notice of changes in data submission requirements to enable them to effectively comply with the new requirements. The general assembly further finds that the department must allow school districts and public schools the necessary time in which to comply with changes in data submission requirements in order to ensure that the school districts and public schools provide accurate data.

(2) The department shall provide to school districts, public schools, and vendors notice of new federal or state data submission requirements or changes to existing federal or state data submission requirements within one business day after receiving the new or changed requirements. The department shall notify school districts, public schools, and vendors of new or changed federal or state data submission requirements and communicate any other pertinent information through an electronic mail list developed by the department to which school districts, public schools, and vendors may subscribe. The department shall also conduct informational meetings that allow school districts, public schools, and vendors to ask questions and receive technical support to ensure accuracy and efficiency in data submission.

(3) (a) To improve the accuracy of submitted data and minimize inaccurate data submissions and errors in data submitted by school districts and public schools, the



department shall update data reporting requirements on the department web site on an annual basis. The department shall ensure that the department web site is updated annually by April 1 with all changes to state or federal data reporting requirements made since the preceding April 1. No later than the following July 1, school districts and public schools shall comply with the changes to state or federal data reporting requirements that are included in the April 1 update.

(b) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, if federally required or state-required timelines for implementing data reporting requirements conflict with the provisions of paragraph (a) of this subsection (3), the department, the school districts, and the public schools shall comply with the federally required timelines.

(4) (a) To assist the department, school districts, and public schools in exercising reasonable management over data collection and submission activities, following the enactment of legislation that alters data collection requirements, the state board shall promulgate rules to implement the changes in accordance with a timeline that ensures the rules are effective by April 1 following the effective date of the legislation. Each school district and public school shall reformat its data systems by the July 1 following enactment of the rules.

(b) Notwithstanding any provision of paragraph (a) of this subsection (4) to the contrary, if federally required or state-required timelines for implementing data reporting requirements conflict with the provisions of paragraph (a) of this subsection (4), the state board, the school districts, and the public schools shall comply with the federally required timelines.

**Source:** L. 2007: Entire part added, p. 1064, § 1, effective May 23. L. 2009: (3) and (4) amended, (HB 09-1214), ch. 198, p. 889, § 2, effective April 30. L. 2010: (3)(b) and (4)(b) amended, (HB 10-1013), ch. 399, p. 1907, § 21, effective June 10.

### **22-2-307. Data reporting requirements - interpretation of federal law - suspension.**

(1) On or before October 1, 2009, and periodically thereafter, the state board shall review the rules for implementing the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and shall adopt an interpretation of said act that will facilitate the exchange and sharing of student information to the greatest extent possible in compliance with the federal regulations for implementing said act. The state board shall consult with the EDAC in determining its interpretation of said act.

(2) The department shall periodically review its interpretation of federal regulations pertaining to education data collection and reporting and shall ensure that it takes into consideration the interpretations adopted by the departments of education in neighboring states.

(3) (a) Notwithstanding any provision of law to the contrary, in any year in which the general assembly does not appropriate moneys to implement a state program in which the department, a school district, the state charter school institute, or a public school was participating, any reporting requirements that are required under the provisions of the state program are suspended, and the department, school districts, the state charter school institute, and public schools need not comply with said reporting requirements; except that a participating school district, the state charter school institute if it is participating, or a participating public school shall comply with requirements to report information concerning the entity's participation in the state program during the period in which it was funded.

(b) For purposes of this subsection (3), "state program" means a program specifically created in state statute and for which the statute creating the program specifically provides funding to a participating school district, the state charter school institute, or a public school.

**Source:** L. 2009: Entire section added, (HB 09-1214), ch. 198, p. 889, § 3, effective April 30.



**22-2-308. Data reporting requirements - office of legislative legal services.** Notwithstanding the provisions of section 2-3-505, C.R.S., the office of legislative legal services, created in section 2-3-501, C.R.S., shall notify EDAC of any legislation introduced that creates by specific language a new data reporting requirement to any state or federal agency.

**Source: L. 2012:** Entire section added, (HB 12-1240), ch. 258, p. 1309, § 4, effective June 4.

## PART 4

### FACILITY SCHOOLS UNIT

**22-2-401. Legislative declaration.** (1) The general assembly hereby finds that:

(a) A significant number of children in Colorado are placed in day treatment centers, residential child care facilities, other out-of-home placement facilities, or hospitals and receive their education through programs provided by these facilities;

(b) Although these facilities strive to provide the best educational programs possible within limited resources and under difficult circumstances, studies indicate that students who receive educational services through facility programs are more likely to repeat a grade level, more likely to perform below grade level, more likely to drop out of school, less likely to be employed, less likely to continue into higher education, and more likely to be eventually arrested and incarcerated;

(c) Each facility independently provides an educational program that, in most instances, is not consistent in the areas of course work, academic credits, graduation standards, or curriculum with any other educational program provided by a facility or with any educational program provided by a school district or an institute charter school. This lack of consistency makes it extremely difficult for a student to move from one facility to another or to move from a facility to a school district or institute charter school and puts the student almost hopelessly behind in meeting standards for completing a grade level or for graduation.

(d) Each student who receives an educational program through a facility participates in the Colorado student assessment program. However, the student's scores are usually not included in calculating a school's levels of attainment of the performance indicators, and the transitory nature of the student's educational career makes it difficult, if not impossible, for an education provider to longitudinally track the student's academic growth.

(e) Because of the uniqueness of the population served by each facility, it is important for each facility to maintain a significant degree of control over the educational program provided by the facility. However, by partnering with the department of education to provide an educational program that, as much as practicable, is consistent among the facilities, each facility can vastly improve the quality of each student's overall academic experience while the student receives educational services from the facility and when the student transfers to another facility or to a school district or an institute charter school.

(2) Therefore, the general assembly finds that creating a unit within the department of education to work with facilities to create consistency with regard to curriculum, standards, and tracking of student performance within facility education programs will raise the overall quality of the education provided to these students, thereby helping these students meet their full potential both academically and as fully contributing adults within the community.

(3) The general assembly further finds that, for purposes of section 17 of article IX of the state constitution, creating the facility schools unit within the department of education and the facility schools board to work with approved facility schools to standardize the educational services provided to students in approved facility schools and implementing a data system to maintain the records of students who receive educational services from approved facility schools will enable approved facility schools to provide each student a more consistent and coherent education, thereby improving each student's likelihood of achieving state academic standards. The facility schools unit, the facility schools board, and

the data system are therefore important elements of accountable programs to meet state academic standards and may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 2008: Entire part added, p. 1374, § 1, effective May 27. L. 2009: (1)(d) amended, (SB 09-163), ch. 293, p. 1529, § 11, effective May 21.

**22-2-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) “Approved facility school” means an educational program that is operated by a facility to provide educational services to students placed in the facility and that, pursuant to section 22-2-407 (2), has been placed on the list of facility schools that are approved to receive reimbursement for providing educational services to students placed in a facility.

(2) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) “Facility” means a day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., or a hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S.

(4) “Placed in a facility” means a student is in a facility due to:

(a) A court order or other action by a public entity in Colorado; or

(b) The student’s determination, if the student is a homeless child as defined in section 22-1-102.5.

(5) “School district” means a school district organized and existing pursuant to law but does not include a junior college district.

(6) “State board of education” or “state board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(7) “Student” means a child or youth who has attained three years of age on or before August 1 and who is under twenty-one years of age.

(8) “Unit” means the facility schools unit created within the department pursuant to section 22-2-403.

**Source:** L. 2008: Entire part added, p. 1376, § 1, effective May 27.

**22-2-403. Facility schools unit - created.** (1) There is hereby created within the department the facility schools unit. The head of the unit shall be the director of facility schools and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution.

(2) The facility schools unit and the office of the director of facility schools shall exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer as defined in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S.

**Source:** L. 2008: Entire part added, p. 1376, § 1, effective May 27.

**22-2-404. Facility schools board - created - membership.** (1) There is hereby created the facility schools board to adopt curriculum standards and set graduation requirements for facility schools and to collaborate with and advise the unit. The facility schools board shall consist of seven members appointed by the state board as provided in this section. The state board shall appoint the initial members of the facility schools board on or before November 1, 2008. The facility schools board shall exercise its powers and perform its duties and functions as if the same were transferred to the department by a **type 1** transfer as defined in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S.

(2) The state board shall appoint the members of the facility schools board as follows:



(a) Two persons who represent school districts within Colorado, one of whom shall have expertise in special education;

(b) One person who represents state-level child placement agencies within Colorado;

(c) One person who represents county departments of social services within Colorado;

(d) Two persons who represent facilities within Colorado; and

(e) One person who represents students who receive educational services provided by facility schools in Colorado. The state board may choose a person who, as a child, received educational services provided by a facility school or who is a parent of a student who is receiving or formerly received educational services provided by a facility school.

(3) (a) In appointing the members of the facility schools board, the state board shall seek to ensure that the membership of the facility schools board collectively has expertise in the areas of:

(I) Curriculum and assessment;

(II) Educating students who are placed in facilities;

(III) Mental health;

(IV) Special education services; and

(V) School finance.

(b) The state board shall ensure that members of the facility schools board are representative of the various geographic areas of the state and are representative of the ethnic and racial diversity and gender balance within the state.

(4) Members of the facility schools board shall serve three-year terms; except that, of the members initially appointed, two members shall serve one-year terms and two members shall serve two-year terms. The state board may reappoint a person to serve successive terms on the facility schools board.

(5) Members of the facility schools board shall serve without compensation but may receive reimbursement for reasonable travel expenses incurred in fulfilling their duties on the facility schools board. The department staff shall assist the facility schools board in performing its duties.

**Source: L. 2008:** Entire part added, p. 1377, § 1, effective May 27.

**22-2-405. Facility schools unit - duties.** (1) In addition to any other duties that may be required by law, the unit shall:

(a) Develop and maintain, as provided in section 22-2-407, the list of approved facility schools;

(b) Make recommendations to the facility schools board regarding the curriculum for use in the approved facility schools;

(c) Make recommendations to the facility schools board regarding graduation requirements for students in approved facility schools. The unit's recommendations shall follow the comprehensive guidelines for high school graduation requirements specified by the state board pursuant to section 22-2-106 (1) (a.5);

(d) Maintain, and make available as provided by law, student information and records for the students who receive educational services from approved facility schools;

(e) Ensure that each student who receives educational services from an approved facility school and who, upon leaving the facility, will reside in Colorado receives a unique identifying number, as provided in rules adopted pursuant to section 22-11-104, if the student has not already been assigned a number by the department; and

(f) Communicate and collaborate with the department of human services, the county departments of social services, and referring agencies regarding the placement and transfer of students in facilities, including but not limited to communication concerning academic testing prior to and following placement and other academic and achievement testing.

(2) In complying with the duties specified in paragraph (d) of subsection (1) of this section, the unit shall:

(a) Adopt data reporting protocols and records transfer procedures for use by approved facility schools; and



(b) In purchasing a data system to maintain the records of students who are receiving educational services from approved facility schools, ensure that the data system selected is compatible with the system used by school districts in serving a majority of the students enrolled in public schools of the state.

**Source: L. 2008:** Entire part added, p. 1378, § 1, effective May 27. **L. 2009:** (1)(e) amended, (SB 09-163), ch. 293, p. 1529, § 12, effective May 21.

**22-2-406. Facility schools board duties - curriculum - graduation standards - rules.** (1) In addition to any other duties provided by law, the facility schools board shall:

(a) Adopt curriculum to be provided by approved facility schools. At a minimum, the facility schools board shall align the curriculum for the core subjects of reading, writing, mathematics, science, history, and geography with the state model content standards adopted pursuant to section 22-7-406 and the assessments administered through the Colorado student assessment program pursuant to section 22-7-409. The curriculum shall include a range of course work from which an approved facility school may select courses that meet the needs of the students who are placed at the facility.

(b) Adopt accountability measures, including academic performance measures, to be applied to approved facility schools and the students receiving educational services through the approved facility schools; and

(c) Award a high school diploma to a student who, while receiving services through an approved facility school, meets the graduation requirements the facility schools board shall establish pursuant to subsection (3) of this section and who applies for the award of a high school diploma from the facility schools board.

(2) The facility schools board may make recommendations to the state board and to the department of human services regarding any of the following issues:

(a) The process for placing a child or youth in a facility when the placement is initiated by a public entity and methods for improving the involvement of school districts in such placement decisions;

(b) The process for placing a child or youth in a facility when the placement is initiated by action by or request of a private person and methods by which school districts may be involved in such placement decisions;

(c) Methods and strategies for improving the quality of educational services provided by approved facility schools and for improving the educational outcomes for students who receive educational services from approved facility schools;

(d) Methods for recruiting and retaining highly qualified teachers and paraprofessionals for employment in approved facility schools;

(e) The provision of appropriate services for students with disabilities, including the process for developing and reviewing individualized education programs;

(f) Methods of reimbursing approved facility schools for the excess costs incurred in providing educational services to students with disabilities, including direct and indirect costs;

(g) The liability of the school districts of residence for providing a free and appropriate public education for the students who are placed in a facility and procedures to ensure students' rights to receive educational services;

(h) The oversight and monitoring of approved facility schools; and

(i) Any other issues that are determined by the facility schools board to be within its purview and that are intended to improve educational outcomes for students receiving educational services from approved facility schools or to promote the efficient delivery of educational services to students who are placed in facilities.

(3) The facility schools board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., to establish procedures by which a student who participates in an approved facility school may apply to receive a high school diploma awarded by the facility schools board. The facility schools board shall also, by rule, establish the graduation requirements that a student receiving educational services through an approved facility school shall meet to be awarded the facility school's high school diploma. In adopting the graduation requirements, the facility schools board shall

take into consideration the recommendations of the unit and shall ensure that the graduation requirements follow the guidelines for high school graduation requirements specified by the state board pursuant to section 22-2-106 (1) (a.5).

**Source: L. 2008:** Entire part added, p. 1379, § 1, effective May 27.

**22-2-407. List of approved facility schools - application - criteria - rules.** (1) Pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., the facility schools board shall promulgate rules for the creation and maintenance as provided in this section of a list of facility schools that are approved to receive reimbursement for providing educational services to students placed in the facility. In addition to the rules specified in this section, the facility schools board shall adopt such additional rules as may be necessary for the implementation of the list pursuant to this section.

(2) (a) The facility schools board by rule shall specify:

(I) The procedures by which a facility school may apply to the unit for placement on the list of approved facility schools;

(II) The information that each facility school shall provide in the application;

(III) The reporting requirements for approved facility schools; and

(IV) The criteria that a facility school shall meet to be placed on the list of approved facility schools.

(b) The unit shall review the applications received pursuant to paragraph (a) of this subsection (2) and shall place on the list of approved facility schools those applicants that meet the criteria specified by rule of the facility schools board. The unit shall notify each applicant regarding placement on the list of approved facility schools. If the unit denies an applicant placement on the list, the unit shall explain the basis for the denial. An applicant that is denied may reapply for placement on the list following correction of the cause for denial.

(3) An approved facility school shall comply with the following requirements in order to remain on the list of approved facility schools:

(a) Adopt and implement the curriculum and graduation requirements specified by the facility schools board pursuant to section 22-2-406 (1) (a) and (3);

(b) Demonstrate compliance with the accountability measures adopted by the facility schools board pursuant to section 22-2-406 (1) (b);

(c) Comply with the reporting and records tracking requirements specified by the unit pursuant to section 22-2-405 (1) (d) and (2); and

(d) Comply with any other requirements specified by rule of the facility schools board.

(4) The unit shall periodically, as provided by rule of the facility schools board, review each approved facility school to determine whether the approved facility school is in compliance with the requirements specified in subsection (3) of this section. If the unit determines that an approved facility school is out of compliance, the unit shall give the approved facility school notice of the lack of compliance. If the approved facility school does not come into compliance within thirty days after receiving the notice, the unit shall remove the facility school from the list of approved facility schools. A facility school that is removed from the list of approved facility schools may reapply for placement on the list as provided in subsection (2) of this section.

**Source: L. 2008:** Entire part added, p. 1380, § 1, effective May 27.

**22-2-408. Approved facility schools - funding.** (1) For the 2008-09 budget year and for each budget year thereafter, each approved facility school shall submit its pupil enrollment to the department and receive funding from the department in accordance with the provisions of section 22-54-129.

(2) For the 2009-10 budget year, and for each budget year thereafter, the department shall annually withhold two percent of the amount payable to each approved facility school. The amount withheld shall be allocated to the unit to offset the costs incurred by the unit and the facility schools board in implementing this part 4.



**Source: L. 2008:** Entire section added, p. 1218, § 31, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-2-409. Notification of risk.** (1) Beginning August 15, 2010, a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., shall notify the appropriate child welfare education liaison, designated pursuant to section 22-32-138 (2) (a), of a student who:

(a) Is transferring to a public school from a state-licensed day treatment facility licensed by the department of human services pursuant to section 26-6-102 (2.5), C.R.S., facility school as defined in section 22-2-402 (1), or hospital licensed or certified pursuant to section 25-3-101, C.R.S.; and

(b) Has been determined by the state-licensed day treatment facility, the facility school, the hospital licensed or certified pursuant to section 25-3-101, C.R.S., or the court to be a risk to himself or herself or the community within the twelve months prior to the proposed transfer.

(2) This section shall apply only to a hospital licensed or certified pursuant to section 25-3-301, C.R.S., that is providing inpatient acute care or psychiatric services for a student for more than ten days and if there is actual knowledge that the student will attend an identified public school within sixty days after discharge from the hospital. For purposes of this subsection (2), information shared with the department of human services, county department of social services, or child education welfare liaison shall be shared only for a student who has been deemed to be a risk to himself or herself or the community within the twelve months prior to discharge.

(3) The notification required in subsection (1) of this section shall be made at least ten calendar days prior to the student's transition from the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., and subsequent enrollment in a public school and shall include an invitation to the child welfare education liaison, or his or her designee, to participate in the development of a transition plan for the student. The information provided to the child welfare education liaison shall include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the school district in meeting the student's needs and ensuring a successful transition. If the transitioning student is in the custody of the department of human services or a county department of social services, the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., shall also provide the notification to the department of human services.

(4) If a change of placement is required for the safety of the student or if a court, the department of human services, or a county department of social services makes a placement change with fewer than ten calendar days notice, the responsible state or county department of human services or social services shall provide information to the child welfare education liaison, designated pursuant to section 22-32-138 (2) (a), of the receiving school district, charter school, or institute charter school within five calendar days following the student's placement. The information provided to the child welfare education liaison shall include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the district in meeting the student's needs and ensuring a successful transition.

(5) The responsible county department of social services and the receiving school district, charter school, or institute charter school shall cooperate to ensure that an appropriate placement including educational services is made pursuant to this section and sections 19-1-115.5, C.R.S., 22-20-108, and 22-32-138, as applicable.

(6) Within the confidentiality and privacy limits of state and federal law, the responsible county department of social services or the school district, charter school, institute charter



school, or facility school shall provide information about the student to assist the receiving entity in determining an appropriate educational placement for the student.

(7) On or before July 1, 2011, the department of human services and the department of education shall enter into a memorandum of understanding, pursuant to section 22-2-139, concerning the enrollment of students in the public school system who meet the requirements of subsection (1) of this section.

**Source: L. 2010:** Entire section added, (HB 10-1274), ch. 271, p. 1249, § 4, effective May 25.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 271, Session Laws of Colorado 2010.

## PART 5

### TEACHER RECRUITMENT AND RETENTION

**22-2-501. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Teachers have a great impact in student achievement. Evidence shows that teacher quality can account for the majority of variances in student learning and test scores.

(b) The teaching and learning conditions under which teachers practice their profession, though often overlooked, are essential elements to student achievement and teacher retention. These conditions must be systematically studied and addressed for Colorado to develop a critical mass of teachers who are well prepared to teach and who will remain in hardest-to-staff schools long enough to make a significant difference for students and their families.

(c) Research also demonstrates that the negative effects of teacher shortages and distribution challenges have a disproportionate impact on the nation's most disadvantaged students, leaving poor and minority children more likely to be taught by less-qualified and under-prepared teachers.

(d) Teachers who are truly highly qualified teach well-designed, standards-based lessons and are able to teach those lessons successfully because they know how and why their students learn. These teachers work effectively with their colleagues to push and lead school improvement and work steadily to sharpen their skills and increase their knowledge because they believe it is part of their professional responsibility to do so.

(e) National board certification is a nationally accepted sign of quality in the teaching profession and offers a nationwide standard for evaluating and encouraging quality teaching. It is a means to recognize and reward the accomplished teachers the state needs to build competitive, world-class schools. National board certified teachers advance the quality of teaching and learning by maintaining high and rigorous standards for what accomplished teachers should know and be able to do.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, implementation of measures designed to improve teacher quality, recruitment, and retention through this part 5 and through House Bill 08-1384, as enacted at the second regular session of the sixty-sixth general assembly, is a critical element of accountable education reform, accountable programs to meet state academic standards, and performance incentives for teachers and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire part added, p. 1361, § 1, effective May 27.

**22-2-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Low-performing, high-needs school" means a school that is required to submit a priority improvement or turnaround plan pursuant to section 22-11-210.

**Source:** L. 2008: Entire part added, p. 1362, § 1, effective May 27. L. 2012: Entire section amended, (HB 12-1261), ch. 257, p. 1306, § 2, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 257, Session Laws of Colorado 2012.

**22-2-503. Teaching and learning conditions survey.** (1) Subject to available appropriations, the department shall administer a biennial teaching and learning conditions survey, referred to in this section as the “survey”, to all preschool, elementary, and secondary teachers in public schools of the state. The survey shall be designed to assess, at a minimum:

- (a) Teaching and learning conditions as predictors of student achievement;
- (b) The correlation, if any, between teaching and learning conditions and teacher retention; and
- (c) The relationship, if any, between teaching and learning conditions and school administration.

(2) The survey results may be used by schools, school districts, the department, state policymakers, and researchers as a resource for:

- (a) School and program design;
- (b) Professional development programs;
- (c) School improvement plans;
- (d) School district continuous improvement programs;
- (e) State education reform initiatives concerning achievement gaps, teacher gaps, dropout rates, and graduation rates; and
- (f) Other analyses to inform school improvement efforts.

**Source:** L. 2008: Entire part added, p. 1362, § 1, effective May 27. L. 2009: IP(1) amended, (SB 09-214), ch. 24, p. 111, § 1, effective March 18.

**22-2-504. National board for professional teaching and principal standards certification compensation - study.** (1) Beginning with the 2009-10 school year, the department, subject to available appropriations, shall award an annual stipend of one thousand six hundred dollars to any teacher or principal who is employed in a school district, a program operated by a board of cooperative services, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title, and who holds a certification from the national board for professional teaching or principal standards. For any stipends that are awarded, the department shall allocate the stipend moneys to the school district that employs the teacher or principal who is to receive the stipend, and the school district shall then make payment directly to the eligible teacher or principal. A school district may, at its discretion, withhold any required employer retirement and medicare contributions associated with the stipend pursuant to this section from the one thousand six hundred dollar stipend amount. For any stipends that are awarded, the stipend shall be:

- (a) Payable on May 1, 2009, and each May 1 thereafter;
- (b) Prorated for less than full-time employment;
- (c) Considered regular salary under section 24-51-101 (42) (a), C.R.S.; and
- (d) In addition to, and not in lieu of, any existing compensation being awarded at the local level to a teacher or principal who holds a certification from the national board for professional teaching or principal standards.

(2) Beginning with the 2009-10 school year, subject to available appropriations, an additional annual stipend of three thousand two hundred dollars shall be awarded to any teacher or principal who meets the criteria set forth in subsection (1) of this section and who is employed as of May 1 in a given school year in a low-performing, high-needs school. Subject to available appropriations, a teacher or principal shall continue to receive the additional stipend award pursuant to this subsection (2) if he or she remains employed in a school that was previously a low-performing, high-needs school but improved sufficiently



to implement an improvement or performance plan pursuant to section 22-11-210. The additional stipend for such teachers and principals shall be subject to the same restrictions and requirements as set forth in subsection (1) of this section.

(3) (a) On or before August 30, 2011, the department shall contract with an outside source to conduct two studies concerning the effectiveness of any annual stipends awarded to teachers pursuant to this section.

(b) The first study shall evaluate the effect of national board certification on student achievement, using longitudinal growth as a measurement. The results of the study shall describe, at a minimum, any differential effectiveness correlated to school characteristics, including but not limited to:

(I) Title I of the federal “Elementary and Secondary Education Act of 1965”, 20 U.S.C. sec. 6301 et seq., eligibility;

(II) School size; and

(III) The proportion of students who attend the school for whom English is a second language.

(c) The second study shall evaluate the effectiveness of any stipends awarded on encouraging teachers to obtain national board certification and encouraging teachers to teach in low-performing schools, the effect of the national board certification on teacher retention, and the effect of having national board certified teachers on the culture of the school.

(d) On or before January 30, 2012, the department shall submit a report containing the findings of the study to the education committees of the house of representatives and the senate, or any successor committees, the governor, and the commissioner of education.

(4) If insufficient funding is available to award a stipend pursuant to subsection (1) of this section to all teachers and principals who hold a certification from the national board for professional teaching or principal standards, stipends shall be awarded only to those teachers and principals who meet the criteria of subsection (1) of this section and who are employed in a low-performing, high-needs school.

**Source: L. 2008:** Entire part added, p. 1363, § 1, effective May 27. **L. 2009:** Entire section amended, (SB 09-214), ch. 24, p. 111, § 2, effective March 18; (2) amended, (SB 09-163), ch. 293, p. 1529, § 13, effective May 21. **L. 2011:** (1)(c) amended, (HB 11-1303), ch. 264, p. 1159, § 41, effective August 10. **L. 2012:** (1) and (2) amended and (4) added, (HB 12-1261), ch. 257, p. 1306, § 3, effective August 8.

**Editor’s note:** Amendments to subsection (2) by Senate Bill 09-163 and Senate Bill 09-214 were harmonized.

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1) and (2) and adding subsection (4), see section 1 of chapter 257, Session Laws of Colorado 2012.

ARTICLE 3

Eye Protective Devices

22-3-101.	Duties regarding eye protective devices.	22-3-103.	activities dangerous to eyes.
22-3-102.	Courses in which devices to be used - substances and	22-3-104.	Standards for devices.
			Implementation.

**22-3-101. Duties regarding eye protective devices.** (1) It is the duty of the governing board of every school district, university, college, or other institution of higher education, and of every person, firm, or organization maintaining any private school, university, college, or other institution of higher education, in this state to provide eye protective devices for the use of all students, teachers, and visitors when participating in the courses and activities enumerated in section 22-3-102.



(2) It is the duty of the persons charged with the supervision of any such course or activity to require such eye protective devices to be worn by students, teachers, and visitors under the circumstances prescribed in section 22-3-102.

**Source:** L. 69: p. 1038, § 1. C.R.S. 1963: § 123-36-1.

**22-3-102. Courses in which devices to be used - substances and activities dangerous to eyes.** (1) Eye protective devices shall be worn in courses including, but not limited to, vocational or industrial art shops or laboratories and chemistry, physics, or combined chemistry-physics laboratories, at any time at which the individual is engaged in, or observing, an activity or the use of hazardous substances likely to cause injury to the eyes.

(2) Hazardous substances likely to cause physical injury to the eyes include materials which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, or radioactive or which generate pressure through heat, decomposition, or other means.

(3) Activity or the use of hazardous substances includes, but is not limited to, the following:

- (a) Working with hot molten metal;
- (b) Milling, sawing, turning, shaping, cutting, grinding, and stamping of any solid materials;
- (c) Heat treating, tempering, or kiln firing of any metal or other materials;
- (d) Gas or electric arc welding;
- (e) Working with hot liquids, solids, or chemicals which are flammable, toxic, corrosive to living tissues, irritating, sensitizing, or radioactive or which generate pressure through heat, decomposition, or other means.

**Source:** L. 69: p. 1039, § 2. C.R.S. 1963: § 123-36-2.

**22-3-103. Standards for devices.** For the purposes of this article, the eye protective devices utilized shall be industrial quality eye protective devices which meet the standards of the U.S.A. standard practice for occupational and educational eye and face protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America Standards Institute, Inc.

**Source:** L. 69: p. 1039, § 3. C.R.S. 1963: § 123-36-3.

**22-3-104. Implementation.** The commissioner of education shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this article.

**Source:** L. 69: p. 1039, § 4. C.R.S. 1963: § 123-36-4.

## ARTICLE 4

### County Superintendent of Schools

**22-4-101 to 22-4-105. (Repealed)**

**Source:** L. 84: Entire article repealed, p. 582, § 1, effective March 19.

**Editor's note:** This article was numbered as article 2 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**ARTICLE 5****Boards of Cooperative  
Services Act of 1965**

22-5-101.	Short title.	22-5-113.	Approval for postsecondary occupational programs.
22-5-102.	Legislative declaration.	22-5-114.	Eligibility for funds.
22-5-103.	Definitions.	22-5-115.	Financing boards of cooperative services.
22-5-104.	Creation of board of cooperative services - meetings.	22-5-116.	Corporate status of boards of cooperative services.
22-5-105.	Organization of board of cooperative services - meetings.	22-5-117.	Employment of teacher transferred from school district.
22-5-105.5.	Regional education and support services plan - submittal - recommendations. (Repealed)	22-5-118.	Implementation and financing of regional education and support services - plan - annual report.
22-5-106.	Financing, budgeting, and accounting.	22-5-119.	Supplemental on-line education services - legislative declaration - contract.
22-5-106.5.	Short-term loans.	22-5-120.	School food authority operations - contracts for provision of food and beverages.
22-5-107.	Duties of board of cooperative services.	22-5-121.	BOCES healthy food grant program - application process - fund - rules - repeal.
22-5-108.	Powers of board of cooperative services.	22-5-122.	Assistance for implementing and meeting state educational priorities - financing.
22-5-109.	Matching power.		
22-5-110.	State and federal payments.		
22-5-111.	Buildings and facilities.		
22-5-112.	Veto power and dissolution.		

**22-5-101. Short title.** This article shall be known and may be cited as the “Boards of Cooperative Services Act of 1965”.

**Source:** L. 65: p. 1027, § 1. C.R.S. 1963: § 123-34-1.

**22-5-102. Legislative declaration.** The general assembly declares that this article is enacted for the general improvement and expansion of educational services of the public schools in the state of Colorado; for the creation of boards of cooperative services where feasible for purposes of enabling two or more school districts to cooperate in furnishing services authorized by law if cooperation appears desirable; and for the setting forth of the powers and duties of said boards of cooperative services.

**Source:** L. 65: p. 1027, § 2. C.R.S. 1963: § 123-34-2.

**22-5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Board” means the board of education of a school district or the governing board or governing agency of a postsecondary institution.

(2) “Board of cooperative services” or “BOCES” means a regional educational service unit designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

(2.3) “District charter school” means a charter school authorized by a school district board of education pursuant to part 1 of article 30.5 of this title.

(2.5) Repealed.

(2.7) “Institute charter school” means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(3) “Postsecondary institution” means a community or technical college, a junior college, or a state-supported institution of higher education.

- (4) "School district" means any public school district existing pursuant to law.
- (5) "State board" means the state board of education.

**Source:** **L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-16. **L. 91:** Entire section amended, p. 896, § 33, effective June 5. **L. 92:** (2.5) added, p. 470, § 2, effective May 29; (2.5) amended, p. 2183, § 60, effective June 2. **L. 97:** (2.5) amended, p. 460, § 4, effective August 6; (2.5) repealed, p. 948, § 2, effective August 6. **L. 2010:** (2.3) and (2.7) added, (SB 10-161), ch. 250, p. 1116, § 3, effective August 11. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 716, § 3, effective May 19.

**Editor's note:** Subsection (2.5) was amended in House Bill 97-1219. Those amendments were superseded by the repeal of subsection (2.5) in House Bill 97-1253.

**22-5-104. Creation of board of cooperative services - meetings.** (1) Whenever the boards of education of two or more school districts or the board of education of a school district and the governing board or governing agency of a postsecondary institution desire to establish a board of cooperative services for the purpose of providing cooperative services as set forth in this article and have so certified to the commissioner of education and other interested boards by appropriate resolution, the presidents of any two of the interested boards may call a meeting of the duly appointed representatives of the interested boards. The interested boards shall seek from the commissioner of education and the state board for community colleges and occupational education any aid and assistance that may be reasonably required, to the end that a proper plan of organization for the board of cooperative services shall be accomplished. At this meeting the boards which have previously and respectively adopted resolutions so authorizing may enter into a proposed agreement to form a board of cooperative services, which proposed agreement shall set forth the names of the participating districts and postsecondary institutions and such other items as may be required. The participating school districts and postsecondary institutions may then proceed to form the board of cooperative services.

(2) (a) At a subsequent meeting, the boards which have approved participation in a board of cooperative services shall agree upon the number of members which are to compose the cooperative board; except that there shall be no less than five members, and each participating board shall be entitled to at least one member on the board of cooperative services.

(b) Each participating board of education of a school district shall then appoint its assigned number of representatives, and one alternate for each, from its membership; except that, if the board of cooperative services consists of a single school district and a single postsecondary institution, the board of education may appoint its representatives, and one alternate for each, from its membership or it may appoint the superintendent of the school district as one of its assigned number of representatives. The term of office of any member representing a board of education of a school district who is also a member of the board of education shall have the same expiration date as the term which the member is serving on the board of education at the time of appointment to the board of cooperative services. The term of office of any school district superintendent who is appointed to represent the board of education of a school district shall not exceed three years; except that, if the superintendent ceases to be an employee of the school district while serving on the board of cooperative services, a vacancy shall exist on the board of cooperative services.

(c) Each participating governing board or governing agency of a postsecondary institution shall then appoint its assigned number of representatives, and one alternate for each, from its membership or the governing board or governing agency may appoint the chief executive officer of such postsecondary institution as one of its assigned number of representatives. The term of office of each member representing a governing board or governing agency of a postsecondary institution shall not exceed three years; except that, if any member of a board of cooperative services who represents a governing board or governing agency of a postsecondary institution ceases to be a member of such governing board or governing agency or the chief executive officer of such postsecondary institution, a vacancy shall exist on the board of cooperative services.



(d) As a term of office expires a replacement to the board of cooperative services shall be appointed by the participating board within thirty days after the expiration date. When other vacancies occur, they shall be filled by appointment by the respective boards within thirty days from the date on which the vacancy occurs.

(e) (I) Upon agreement of all of the boards participating in a board of cooperative services, one member of the board of cooperative services may be jointly appointed by the participating boards from the public at large; however, such member shall reside in the area served by the board of cooperative services. The term of office of such member shall not exceed three years. As the term of office of such member expires, a replacement to the board of cooperative services shall be jointly appointed by the participating boards within thirty days after the expiration date.

(II) In addition to the member appointed pursuant to subparagraph (I) of this paragraph (e), the participating boards of a board of cooperative services consisting of a single school district and a single postsecondary institution may jointly appoint up to four members of the board of cooperative services from the public at large. A member so appointed shall reside in the area served by the board of cooperative services. The term of office of a member so appointed shall not exceed three years. As the term of office of a member appointed pursuant to this subparagraph (II) expires, a replacement to the board of cooperative services may be jointly appointed by the participating boards within thirty days after the expiration date.

(3) The agreement to establish a board of cooperative services may be amended to admit one or more additional school districts or postsecondary institutions if the board of the school district or postsecondary institution seeking admission shall certify by resolution a desire to be admitted to membership in the board of cooperative services and if the board of cooperative services by resolution agrees to the admission of the school district or postsecondary institution.

(4) A board of cooperative services shall meet at least quarterly. A quorum shall consist of a simple majority of those members serving on a board of cooperative services. In the absence of a regular member, the alternate, if present, may be counted toward the required quorum and assume the prerogatives of the regular member.

(5) A board of cooperative services may adopt a policy authorizing the board to conduct its meetings using video teleconferencing technology that will allow members of the board to view each other during the meeting and fully participate in the discussion and in voting; except that the board members shall gather in one physical location for at least one of the quarterly meetings held each year. The policy shall address the method by which members of the public shall be allowed access to any video teleconference of the board of cooperative services that is conducted pursuant to this subsection (5). In addition, the policy shall specify any agenda items that the board of cooperative services may not consider during any video teleconference conducted pursuant to this subsection (5). A board of cooperative services shall not go into executive session during any video teleconference conducted pursuant to this subsection (5). A quorum shall be deemed to exist at any video teleconference held pursuant to this subsection (5) if the number of members participating in the video teleconference meeting equals the number necessary for a quorum pursuant to subsection (4) of this section.

**Source:** L. 65: p. 1027, § 3. C.R.S. 1963: § 123-34-3. L. 67: p. 804, § 1. L. 73: p. 1293, § 1. L. 91: (1) to (3) amended, p. 897, § 34, effective June 5. L. 97: (2)(b) and (2)(c) amended, p. 957, § 1, effective May 21. L. 99: (5) added, p. 126, § 1, effective March 24. L. 2003: (2)(e) amended, p. 671, § 1, effective August 6.

**22-5-105. Organization of board of cooperative services - meetings.** At its first meeting, the members of the board of cooperative services elected as set forth in section 22-5-104 shall proceed to elect from their membership a president, a vice-president, a secretary, and a treasurer, whose terms of office shall be for two years, unless their terms of office as board members expire earlier, in which case the officership shall similarly expire. The duties of the president, vice-president, secretary, and treasurer of the board of cooperative services shall be the same as set forth for similar offices of boards of education

in sections 22-32-105 to 22-32-107. Similarly, meetings of the board of cooperative services shall be called, held, and conducted as set forth in section 22-32-108; except that, pursuant to section 22-5-104 (5), a board of cooperative services may conduct meetings using video teleconferencing technology.

**Source:** **L. 65:** p. 1028, § 4. **C.R.S. 1963:** § 123-34-4. **L. 91:** Entire section amended, p. 898, § 35, effective June 5. **L. 99:** Entire section amended, p. 127, § 2, effective March 24.

**22-5-105.5. Regional education and support services plan - submittal - recommendations. (Repealed)**

**Source:** **L. 92:** Entire section added, p. 468, § 1, effective May 29; (4) and (5) amended, p. 2183, § 61, effective June 2.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 1994. (See L. 92, p. 468.)

**22-5-106. Financing, budgeting, and accounting.** (1) (a) Financing of the services performed under the direction of the board of cooperative services shall be by contributions from available moneys in any funds, which may be legally expended for such services, of the participating members on the basis of a proportionality agreed upon by the participating members and from the boards of cooperative services.

(b) A board of cooperative services may finance all or a portion of the costs of an approved vocational education program from funds received pursuant to article 8 of title 23, C.R.S.

(2) A board of cooperative services shall adopt a budget and an appropriation resolution prior to the beginning of the fiscal year for which adopted.

(3) A board of cooperative services shall follow the provisions of the "School District Budget Law of 1964", being part 1 of article 44 of this title, wherever such provisions are applicable; except that the provisions of sections 22-44-112 (3) (c), (4), and (6) and 22-44-115 (4) shall not apply to a board of cooperative services.

**Source:** **L. 65:** p. 1028, § 5. **C.R.S. 1963:** § 123-34-5. **L. 67:** p. 793, § 1. **L. 71:** p. 1176, § 1. **L. 73:** p. 1293, § 2. **L. 90:** (2) amended, p. 1080, § 33, effective May 31. **L. 91:** (1) amended, p. 899, § 36, effective June 5. **L. 2005:** (1) amended, p. 435, § 10, effective April 29.

**22-5-106.5. Short-term loans.** A board of cooperative services may, upon approval of its members, negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the budget of the board of cooperative services and the amount credited to date to said budget in order to pay current obligations. Such loan shall be liquidated within six months thereafter from moneys subsequently credited to said budget. The total principal, interest, and fees to be paid on such loan shall not exceed the total amount of the authorized budget for the same length of time.

**Source:** **L. 77:** Entire section added, p. 1035, § 1, effective May 7. **L. 91:** Entire section amended, p. 899, § 37, effective June 5.

**22-5-107. Duties of board of cooperative services.** In addition to any other duty required to be performed by law, the board of cooperative services shall have the same duties as those for boards of education as set forth in section 22-32-109 (1) (a) to (1) (m), (1) (q), and (1) (r) and section 22-9-106.



**Source:** L. 65: p. 1029, § 6. C.R.S. 1963: § 123-34-6. L. 92: Entire section amended, p. 471, § 1, effective April 29.

**22-5-108. Powers of board of cooperative services.** (1) In addition to any other powers granted by law, the board of cooperative services shall have the following specific powers, to be exercised in its judgment:

(a) Those powers set forth for boards of education in section 22-32-110 (1) (b) to (1) (k), (1) (n) to (1) (q), (1) (s) to (1) (w), (1) (y), and (1) (aa) to (1) (ee) and in sections 22-32-113, 22-32-114, 22-32-116 to 22-32-118, 22-32-120 to 22-32-122, and 22-32-124;

(b) To take and hold in the name of the board of cooperative services so much real and personal property as may be reasonably necessary for any purpose authorized by law;

(c) To operate schools and classes as authorized by the members;

(d) To determine which programs and facilities of the board of cooperative services shall be operated and maintained;

(e) To award diplomas or certificates of accomplishment as authorized by the members;

(f) To exclude from any library operated by the board of cooperative services any books, magazines, papers, or other publications which, in the judgment of the board, are of immoral or pernicious nature;

(g) To select a depository for moneys belonging to the board of cooperative services, and to invest any funds on hand which are not then needed in the conduct of its affairs in any securities which are legal investments for the state and its political subdivisions, pursuant to part 6 of article 75 of title 24, C.R.S.;

(h) To enter into contracts and to receive federal matching funds for moneys spent in providing student health services pursuant to section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(i) To contract with a district charter school or an institute charter school pursuant to section 22-30.5-104 (7) (b) or 22-30.5-507 (8) (b), respectively, for the use of a school building and grounds, the operation and maintenance of the building and grounds, and the provision of any service, activity, or undertaking that the district charter school or institute charter school is required to perform to carry out the educational program described in its charter contract.

**Source:** L. 65: p. 1029, § 7. C.R.S. 1963: § 123-34-7. L. 67: p. 805, § 2. L. 69: p. 1032, § 2. L. 73: p. 1293, § 3. L. 97: (1)(h) added, p. 1138, § 6, effective May 28. L. 2006: (1)(h) amended, p. 2005, § 63, effective July 1. L. 2010: (1)(i) added, (SB 10-111), ch. 170, p. 599, § 1, effective August 11; (1)(i) added, (SB 10-161), ch. 250, p. 1116, § 4, effective August 11.

**Editor's note:** Amendments to subsection (1)(i) by Senate Bill 10-111 and Senate Bill 10-161 were harmonized.

**22-5-109. Matching power.** The board of cooperative services shall be authorized to use the contributions from the participating members to match state and federal funds, or funds from any other agencies when applicable, when the acceptance of financial assistance from such other agencies requires matching of funds as a condition of participating in services authorized by law.

**Source:** L. 65: p. 1029, § 8. C.R.S. 1963: § 123-34-8. L. 91: Entire section amended, p. 899, § 38, effective June 5.

**22-5-110. State and federal payments.** Any state or federal financial assistance which would accrue to an individual school district if it were performing a service performed under the direction of a board of cooperative services shall be apportioned by the appropriate state or federal agency to the participating school districts on the basis of the proportionality of the contributions of the participating school districts to the performance of the service or upon the basis of proportionality otherwise set forth by law.

**Source:** L. 65: p. 1029, § 9. C.R.S. 1963: § 123-34-9.



**22-5-111. Buildings and facilities.** (1) A school district which is participating in a cooperative service agreement, when authorized by a vote of the eligible electors as provided in article 42 of this title, may contract for bonded indebtedness for the purpose of purchasing sites, constructing buildings or other structures, and equipping buildings which are necessary for the operation of a cooperative educational service program. The district which contracts for bonded indebtedness may charge the other members participating in the cooperative service agreement for the use of the building and equipment. The rental proceeds may be applied to the retirement of said bonded indebtedness. This article shall not be construed to create liability for retirement of such bonded indebtedness upon the other members participating in the cooperative service agreement.

(2) The boards of education of the school districts participating in a cooperative service agreement may jointly, separately, or, after approval of each participating board of education, as a board of cooperative services construct, purchase, or lease sites, buildings, and equipment for the purpose of providing the facilities necessary for the operation of a cooperative service program at any appropriate location, whether within or without a school district providing the money for the facilities. School district moneys in any fund from which moneys may be legally expended for such facilities may be used for carrying out the provisions of this section. The provisions of sections 22-32-127 and 22-45-103 (1) shall apply to any installment purchase agreement or any lease or rental agreement, including but not limited to any sublease-purchase agreement entered into by a school district that is a member of a board of cooperative services pursuant to section 22-43.7-110 (2) (c), entered into by a board of cooperative services or by the boards of education of the school districts participating in a cooperative service agreement. No board of education of a school district participating in a cooperative service agreement shall make any levy for its bond redemption fund, or use any moneys in its bond redemption fund, except in accordance with the provisions of section 22-45-103 (1) (b).

(3) The board of cooperative services, when authorized by a vote of the registered electors of all of the school districts participating in the agreement, may borrow any moneys available from the permanent school fund for purposes of purchasing sites and erecting buildings for use of the board of cooperative services. Repayment of such loans and interest thereon shall be by payments from the participating school districts on a proportion agreed upon by the boards of education of said participating school districts.

**Source:** L. 65: p. 1029, § 10. C.R.S. 1963: § 123-34-10. L. 67: p. 793, § 2. L. 83: (2) amended, p. 743, § 1, effective June 1. L. 85: (2) amended, p. 733, § 4, effective May 31. L. 87: (1) and (3) amended, p. 305, § 22, effective July 1. L. 91: (1) amended, p. 899, § 39, effective June 5. L. 93: (1) amended, p. 1780, § 44, effective June 6. L. 2008: (2) amended, p. 1065, § 9, effective May 22.

**22-5-112. Veto power and dissolution.** (1) A participating board may refrain from participating in a specific activity proposed by the board of cooperative services by giving due notice through a board resolution as may be provided in the bylaws of the board of cooperative services.

(2) A participating board may withdraw from a board of cooperative services after having given due notice as provided in the bylaws of the board of cooperative services and after having satisfactorily completed all specific contracts to which it has become a party, or upon otherwise being released from its commitments by the board of cooperative services.

(3) A board of cooperative services may be dissolved by its resolution upon the completion of all contracts or upon other adequate discharge of its obligations.

**Source:** L. 67: p. 805, § 3. C.R.S. 1963: § 123-34-11.

**22-5-113. Approval for postsecondary occupational programs.** No board of cooperative services shall establish a new postsecondary program of occupational education without first obtaining approval from the state board for community colleges and occupational education.

**Source:** L. 67: p. 447, § 24. C.R.S. 1963: § 123-34-12.

**Cross references:** For the establishment of the state board for community colleges and occupational education, see § 23-60-104.

**22-5-114. Eligibility for funds.** (1) (a) Any board of cooperative services organized under the provisions of this article shall be eligible to receive such state moneys as may be available upon receiving approval by the state board.

(b) Approval to receive state moneys under this subsection (1) does not constitute approval to receive state moneys pursuant to section 22-5-118.

(2) Unless otherwise approved by the state board, to be eligible to receive state funds under this section and under section 22-5-118, a board of cooperative services shall meet all the following criteria:

(a) It shall serve school districts with a combined total enrollment of not less than four thousand students; and

(b) It shall either serve school districts in two or more counties or serve multiple school districts located in the same county.

**Source:** L. 73: p. 1294, § 4. C.R.S. 1963: § 123-34-13. L. 96: Entire section amended, p. 977, § 2, effective May 23. L. 2001: (1)(a) amended, p. 352, § 16, effective April 16. L. 2003: (1)(a) amended, p. 2124, § 14, effective May 22.

**22-5-115. Financing boards of cooperative services.** (1) (a) No later than July 1, 1973, and July 1 of each year thereafter prior to July 1, 2007, the state board shall determine the number of eligible boards of cooperative services and, subject to available appropriations, award a ten-thousand-dollar grant to each such eligible board. For budget years commencing on or after July 1, 2007, the state board, subject to available appropriations, shall award at least ten thousand dollars to each eligible board of cooperative services.

(b) If available moneys are insufficient to award each eligible board the amount specified in paragraph (a) of this subsection (1), the state board shall reduce proportionately all awards for eligible boards for that year.

(2) The state board shall certify to the state treasurer the name and address of, and the amount payable to, each eligible board of cooperative services. Upon receipt of such certification, but no later than July 15, 1973, and July 15 of each year thereafter, the state treasurer shall make distribution of the amount so certified to the respective boards of cooperative services.

(3) The general assembly shall annually make a separate appropriation to the state board to cover the estimated cost of the basic grants to eligible boards of cooperative services as set forth in subsection (1) of this section.

(4) For budget years commencing on or after July 1, 1996, any amount received by a board of cooperative services pursuant to this section shall be used to fund professional educator development in standards-based education pursuant to the plan adopted by each school district pursuant to section 22-7-407 (2) in each school district that is a member of such board and in any nonmember school district that chooses to participate in a professional educator development program with any board of cooperative services.

**Source:** L. 73: p. 1294, § 4. C.R.S. 1963: § 123-34-14. L. 93: (4) added, p. 1047, § 3, effective June 3. L. 97: (4) amended, p. 460, § 5, effective August 6. L. 2003: (1), (3), and (4) amended, p. 2124, § 15, effective May 22. L. 2006: (1) amended and (3) RC&RE, p. 1119, §§ 1, 2, effective May 25.

**22-5-116. Corporate status of boards of cooperative services.** Each regularly organized board of cooperative services formed at any time is hereby declared to be a body corporate and in its name may hold title to personal property for any purpose authorized by law, sue, and be a party to contracts for any purpose authorized by law.

**Source: L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-15.

**22-5-117. Employment of teacher transferred from school district.** Any teacher transferred from employment in a school district which is a member of a board of cooperative services to employment in said board of cooperative services shall retain the employment status he had attained prior to his transfer to the board of cooperative services, including credit for years of service as a probationary teacher, as provided in article 63 of this title, in the school district from which he transferred.

**Source: L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-17. **L. 90:** Entire section amended, p. 1131, § 9, effective July 1.

**22-5-118. Implementation and financing of regional education and support services - plan - annual report.** (1) The general assembly recognizes that the increasing number of students, the desire to reduce school districts' reliance on property taxes, the need to consolidate services rather than schools, and the limitations on state revenues require the boards of cooperative services to develop the highest possible efficiencies and most economic methods for school districts to deliver education and support services. The general assembly further recognizes that it is essential to assist school districts in providing educational services with the maximum economies of scale without violating the principle of local control. The general assembly therefore declares that using boards of cooperative services to assist in delivering education and support services furthers a valid public purpose and promotes a commitment to achieving efficiencies and economies in providing educational services.

(2) Beginning fiscal year 1996-97 and for fiscal years thereafter, in addition to any state moneys received pursuant to section 22-5-115, a board of cooperative services may receive state moneys by submitting to the department of education a plan for the provision of education and support services programs, as specified in this section. Any amount appropriated to fund any education or support services program pursuant to this section shall be distributed by the department of education to each board of cooperative services that submits a plan. The amount appropriated shall be divided equally based on the total number of students enrolled in the member school districts of the participating boards and distributed based on the number of students participating in the funded education or support services program from each member school district of each participating board.

(3) (a) To receive funds under this section, a board of cooperative services, in cooperation with its participating school districts, the department of education, the Colorado commission on higher education, the state board for community colleges and occupational education, and postsecondary institutions, shall prepare and submit a plan to increase efficiencies and economies in providing education and support services to the board's participating school districts.

(b) Each plan shall include but is not limited to measures concerning:

(I) The enhancement of student achievement and instruction through cooperative research and development, the continuous upgrading of standards and assessment techniques, and the establishment of a regional curriculum center;

(II) Staff development and training programs;

(III) The development of improved communications through such methods as communications technology, distance learning, and media assistance;

(IV) The use of federal and state categorical funds and the distribution and delivery of federal block grant moneys;

(V) Data processing;



(VI) Agreements to act as a regional administrative unit for transportation, cooperative purchasing, and other noninstructional support services, as may be appropriate;

(VI.5) Agreements pertaining to the board's operations, if any, as a school food authority, pursuant to section 22-5-120; and

(VII) Cooperative programs for students who are at risk of suspension or expulsion.

(4) A board of cooperative services may contract with a school district that is not a member of the board of cooperative services to provide to the school district any of the services specified in the plan developed pursuant to this section.

(5) The general assembly may appropriate moneys to the department of education for distribution to boards of cooperative services as provided in this section. Any moneys appropriated shall be in addition to any moneys appropriated pursuant to section 22-5-115.

(6) (a) By July 1 of each year, each board of cooperative services that receives moneys pursuant to this section shall submit a report to the department of education concerning the programs and services funded by moneys received pursuant to this section.

(b) Repealed.

(7) The state board may adopt rules for the implementation of this section.

**Source:** L. 96: Entire section added, p. 975, § 1, effective May 23. L. 98: (6)(b) repealed, p. 1075, § 1, effective June 1. L. 2006: (6)(a) amended, p. 597, § 7, effective August 7. L. 2010: (3)(b)(VI) amended and (3)(b)(VI.5) added, (HB 10-1335), ch. 326, p. 1512, § 2, effective August 11.

**22-5-119. Supplemental on-line education services - legislative declaration - contract.** (1) (a) (I) The general assembly finds that:

(A) On-line education courses that are supplemental to the education program provided by a school district, charter school, or BOCES are a valuable resource for schools because they allow a school district, charter school, or BOCES to provide a much richer, more varied curriculum of courses for students at all levels of achievement;

(B) Supplemental on-line education courses provide tools for school districts, charter schools, and BOCES to use in decreasing the college remediation rates and in helping their students comply with the higher education admission guidelines;

(C) The cost of supplemental on-line education courses is prohibitive for many school districts, charter schools, and BOCES whose students may be most in need of these courses. Because of the value of these courses, it is appropriate that the state provide moneys to assist school districts, charter schools, and BOCES in purchasing supplemental on-line education courses.

(II) It is therefore in the best interests of the state to ensure the availability of affordable supplemental on-line education courses for school districts, charter schools, and BOCES by subsidizing the provision of supplemental on-line education courses.

(III) Due to its experience in assisting school districts in obtaining supplemental on-line courses, it is further in the best interests of the state to designate the mountain BOCES to contract with a provider of supplemental on-line education courses as a mechanism for reimbursement of the cost of providing the courses to school districts, charter schools, and BOCES and to reduce the cost of the courses.

(b) It is further the intent of the general assembly that the amount necessary to reduce the cost to school districts, charter schools, and BOCES of purchasing supplemental on-line education courses be appropriated annually from federal mineral leasing revenues transferred to the state public school fund pursuant to section 34-63-102, C.R.S., and section 22-54-114 (1).

(2) As used in this section, unless the context otherwise requires:

(a) "BOCES" means a board of cooperative services created pursuant to this article.

(b) "Charter school" means a district charter school authorized pursuant to part 1 of article 30.5 of this title or an institute charter school authorized pursuant to part 5 of article 30.5 of this title.

(c) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(d) "Provider" means an entity that sells supplemental on-line education courses that are taught by employees of the provider who are teachers licensed in Colorado pursuant to article 60.5 of this title.

(e) "Supplemental on-line education course" means an education course that is:

(I) Taught by a teacher who is licensed pursuant to article 60.5 of this title;

(II) Delivered via an internet format to one or more students at a location that is remote from the delivery point; and

(III) Purchased by a school district, charter school, or BOCES from a provider to augment the education program provided by the school district, charter school, or BOCES.

(3) On or before August 1, 2007, and on or before August 1 of each year thereafter through August 1, 2011, and on or before August 1, 2012, and on or before August 1 of every third year thereafter, the mountain BOCES, subject to available appropriations, shall contract with a provider to provide supplemental on-line education courses to school districts, charter schools, and BOCES that choose to purchase the courses. At a minimum, the contract shall provide that:

(a) Supplemental on-line education courses shall be provided to a purchasing school district, charter school, or BOCES at a cost of no more than two hundred dollars per student per semester course; and

(b) The cost per student per semester course charged to the school district, charter school, or BOCES shall not increase regardless of the number of students enrolled or the number of courses provided.

(4) The general assembly shall annually appropriate to the department of education for allocation to the mountain BOCES moneys sufficient to administer and fund the contract with the provider entered into pursuant to this section. The mountain BOCES may expend not more than two percent of the contract amount in administering the contract.

(5) On or before March 15, 2008, and on or before March 15 each year thereafter, the mountain BOCES shall submit to the education committees of the house of representatives and the senate, or any successor committees, the joint budget committee of the general assembly, and the department a report summarizing the provision of supplemental on-line courses pursuant to this section. At a minimum, the report shall include:

(a) The number of registrants in supplemental on-line courses, disaggregated by the school district, charter school, or BOCES that registered the students;

(b) The supplemental on-line course titles offered and the number of registrants per course;

(c) Completion statistics for each supplemental on-line course, disaggregated by semester;

(d) The number of supplemental on-line courses taken for both high school and postsecondary credit, disaggregated by postsecondary institution and school district;

(e) A list of the supplemental on-line courses developed or revised by the contract provider;

(f) The strategies used successfully to facilitate student success in supplemental on-line course work;

(g) An analysis of the reasons school districts, charter schools, and BOCES use supplemental on-line courses;

(h) A description of any unique uses of supplemental on-line courses by school districts, charter schools, and BOCES;

(i) A description of any barriers encountered by school districts, charter schools, or BOCES in using supplemental on-line courses;

(j) A representative sampling of student and administrator comments regarding participation in supplemental on-line courses;

(k) Trend data related to the supplemental on-line learning environment; and

(l) An accounting of the expenditure of the funds allocated to the mountain BOCES pursuant to this section, which shall include an accounting by the mountain BOCES and by the contract provider.

(6) Repealed.



**Source:** **L. 2007:** Entire section added, p. 1093, § 1, effective May 23. **L. 2010:** (6) repealed, (HB 10-1037), ch. 43, p. 169, § 2, effective March 29. **L. 2012:** IP(3) amended, (HB 12-1345), ch. 188, p. 716, § 4, effective May 19.

**22-5-120. School food authority operations - contracts for provision of food and beverages.** (1) Each board of cooperative services is authorized to maintain, equip, and operate a food-service facility as a school food authority, as defined in section 22-32-120 (8).

(2) Each board of cooperative services that elects to operate as a school food authority is encouraged to procure and distribute to schools of its constituent school districts food and beverages that:

(a) Satisfy nutritional standards established by the United States department of agriculture; and

(b) Have been locally grown or produced.

(3) Each board of cooperative services that elects to operate as a school food authority may seek, accept, and expend gifts, grants, and donations to facilitate its operations as a school food authority; except that a board of cooperative services shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state.

**Source:** **L. 2010:** Entire section added, (HB 10-1335), ch. 326, p. 1507, § 1, effective August 11.

**22-5-121. BOCES healthy food grant program - application process - fund - rules - repeal.** (1) **Program created.** (a) There is hereby created in the department of education the BOCES healthy food grant program, referred to in this section as the “program”. The objectives of the program are to:

(I) Make grants available to boards of cooperative services that maintain, equip, and operate food-service facilities as school food authorities pursuant to section 22-5-120; and

(II) Require each board of cooperative services that receives a grant from the program to procure and distribute to schools of its constituent school districts only food and beverages that satisfy nutritional standards for food and beverages served to children during the school day, which standards are established by a research institution not less than forty years old that examines policy matters pertaining to the health of the public and is chartered by the United States congress to advise the federal government regarding scientific and technical matters, which research institution is identified by rules promulgated by the state board pursuant to paragraph (d) of subsection (7) of this section.

(b) The department of education shall administer the program in accordance with the provisions of this section. Notwithstanding any provision of this section to the contrary, the department, the commissioner of education, and the state board shall not be required to implement the provisions of this section until such time as sufficient moneys, as determined by the department, are credited to the BOCES healthy food grant program cash fund created in subsection (5) of this section.

(2) **Application process.** (a) A board of cooperative services that is operating as a school food authority may apply for a grant from the program in accordance with the procedures established by rules promulgated by the state board pursuant to subsection (7) of this section.

(b) In accordance with the rules promulgated by the state board pursuant to subsection (7) of this section, the department of education shall develop a standard application form for a board of cooperative services to use in applying for a grant from the program. The department shall make the standard application form electronically available to the public.

(c) Each board of cooperative services that applies for a grant from the program shall use the standard application form developed by the department of education pursuant to paragraph (b) of this subsection (2). In submitting the standard application form, the board of cooperative services shall provide all the information requested on the form as well as any other information that the department may request.



(d) (I) Upon receiving an application from a board of cooperative services, the department of education shall submit the application to the commissioner of education. The commissioner or his or her designee shall review each application and, subject to the receipt of sufficient gifts, grants, or donations pursuant to paragraph (d) of subsection (5) of this section, determine and announce on or before June 1, 2011, and on or before June 1 each year thereafter, which boards of cooperative services, if any, shall receive grants and the amount of the grant that each recipient board of cooperative services shall receive. Pursuant to this determination, the department shall transfer the appropriate grant amount to each recipient board of cooperative services.

(II) Notwithstanding any provision of this section to the contrary, if the department of education does not receive sufficient gifts, grants, or donations on or before March 1 of any year, the department shall not be required to determine and announce grant recipients on or before June 1 of that year, as described in subparagraph (I) of this paragraph (d). If the department of education receives sufficient gifts, grants, or donations only after March 1 of any year, the department shall determine and announce grant recipients, as described in said subparagraph (I), no more than ninety days after the date upon which the department received sufficient gifts, grants, or donations.

(3) **Eligibility - selection criteria.** (a) The commissioner of education or his or her designee shall award a grant from the program only to a board of cooperative services that:

(I) Maintains, equips, and operates a food-service facility as a school food authority pursuant to section 22-5-120; and

(II) Procures and distributes to schools of its constituent school districts only food and beverages that satisfy nutritional standards for food and beverages served to children during the school day, which standards are established by a research institution not less than forty years old that examines policy matters pertaining to the health of the public and is chartered by the United States congress to advise the federal government regarding scientific and technical matters, which research institution is identified by rules promulgated by the state board pursuant to paragraph (d) of subsection (7) of this section.

(b) In selecting boards of cooperative services to receive grants from the program and in determining the amount of the grant to be awarded to each recipient board of cooperative services, the commissioner of education or his or her designee shall use the criteria and procedures established by rules promulgated by the state board pursuant to subsection (7) of this section.

(c) Notwithstanding the provisions of subparagraph (II) of paragraph (a) of subsection (1) of this section and subparagraph (II) of paragraph (a) of this subsection (3), the nutritional requirements described in said provisions shall not apply to fruit with no added sweeteners, nuts, nut butters with no added sweeteners, seeds, low-fat cheese with no added sweeteners, or eggs.

(4) **Permissible uses of grant moneys.** (a) Except as provided in paragraph (b) of this subsection (4), a board of cooperative services that receives a grant from the program shall use all the grant moneys to facilitate its operations as a school food authority, which operations include, but are not limited to, administrative functions relating to its operations as a school food authority.

(b) A board of cooperative services that receives a grant from the program may use a portion of the grant moneys to gather, record, and assemble data for the purpose of preparing the reports described in subsection (6) of this section.

(5) **Fund created.** (a) There is hereby created in the state treasury the BOCES healthy food grant program cash fund, referred to in this section as the "fund". The fund shall consist of:

(I) Any gifts, grants, or donations received by the department of education for the fund pursuant to paragraph (d) of this subsection (5); and

(II) Any other moneys that the department of education may allocate to the fund pursuant to paragraph (e) of this subsection (5).

(b) The moneys in the fund shall be subject to annual appropriation by the general assembly to the department of education for the direct and indirect costs associated with the implementation of the program pursuant to the provisions of this section; except that any federal moneys allocated to the fund pursuant to paragraph (e) of this subsection (5) shall

not be subject to appropriation. Of the moneys annually appropriated from the fund, the department of education may expend no more than ten percent to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this section.

(c) Any moneys in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund; except that all unexpended and unencumbered moneys remaining in the fund as of June 30, 2015, shall be transferred to the general fund.

(d) The department of education is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this section or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund. Nothing in this section shall be interpreted as requiring the department to solicit funding for the program.

(e) To the extent permitted by law, the department of education may, at its discretion, allocate other moneys to fund the program.

(6) **Reports.** (a) Not later than January 1, 2015, the department of education shall prepare and submit to the education committees of the house of representatives and the senate, or any successor committees, a report that describes the activities carried out under this section and evaluates the effectiveness of the program.

(b) The report prepared by the department of education pursuant to paragraph (a) of this subsection (6) shall, at a minimum, include the following:

(I) The total number of boards of cooperative services that received moneys awarded as grants under the program;

(II) The amount of moneys awarded to each board of cooperative services that received a grant under the program;

(III) Information demonstrating the department's compliance with the provisions of this section and any rules promulgated by the state board pursuant to subsection (7) of this section; and

(IV) Statistical evidence or other information to assist the committees in evaluating the effectiveness of the program.

(7) **Rules.** The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing policies and procedures for the administration of the program, including but not limited to:

(a) Procedures by which a board of cooperative services may apply for a grant from the program;

(b) Minimum requirements for the standard application form developed by the department of education pursuant to paragraph (b) of subsection (2) of this section. At a minimum, each application submitted to the department by a board of cooperative services shall include:

(I) Information that is sufficient to demonstrate that the board of cooperative services is operating as a school food authority;

(II) A written confirmation from the chief administrator of the board of cooperative services that the board of cooperative services is procuring and distributing to schools of its constituent school districts only food and beverages that satisfy nutritional standards established by the United States department of agriculture; and

(III) A proposal indicating how the board of cooperative services plans to use grant moneys awarded under the program. The proposal shall ensure that the entire amount of the grant moneys awarded under the program shall be used for the purposes described in subsection (4) of this section.

(c) Criteria and procedures for the commissioner of education or his or her designee to use in selecting boards of cooperative services to receive grants under the program and in



determining the amount of the grant to be awarded to each recipient board of cooperative services;

(d) For the purposes of subparagraph (II) of paragraph (a) of subsection (1) of this section and subparagraph (II) of paragraph (a) of subsection (3) of this section, the identification of a research institution not less than forty years old that examines policy matters pertaining to the health of the public and is chartered by the United States congress to advise the federal government regarding scientific and technical matters.

(8) **Repeal.** This section is repealed, effective July 1, 2015.

**Source: L. 2010:** Entire section added, (HB 10-1335), ch. 326, p. 1508, § 1, effective August 11.

**22-5-122. Assistance for implementing and meeting state educational priorities - financing.** (1) (a) For the 2012-13 fiscal year and each fiscal year thereafter, a BOCES may receive state moneys in addition to any other moneys received pursuant to this article by submitting a plan to the state board, in a form and manner specified by rule of the state board, that details how the BOCES will use the additional moneys to assist its participating school districts in implementing and meeting the state's educational priorities as determined by the commissioner of education pursuant to subsection (2) of this section. The state board may specify additional information that a BOCES is required to include in a plan submitted pursuant to this paragraph (a).

(b) For the 2012-13 fiscal year, a BOCES that seeks additional moneys shall submit a plan pursuant to paragraph (a) of this subsection (1) to the state board on or before August 1, 2012. For the 2013-14 fiscal year and each fiscal year thereafter, a BOCES that seeks additional moneys shall submit a plan pursuant to paragraph (a) of this subsection (1) to the state board on or before May 1 of the preceding fiscal year.

(c) For the 2013-14 fiscal year, and each fiscal year thereafter, if a BOCES that submits a plan to the state board pursuant to paragraph (a) of this subsection (1) also submitted a plan in the previous fiscal year, the BOCES shall include a report detailing the results of the previous year's plan in its new plan submission.

(2) On or before June 1, 2012, on or before March 1, 2015, and on or before March 1 every third year thereafter, the commissioner of education, in consultation with a statewide association in the state that represents one or more BOCES in the state and a council created by the commissioner of education that advises the commissioner and the department of education regarding the needs and concerns of rural school districts in the state, shall determine the state's educational priorities for the purposes of this section. The priorities may include, but need not be limited to, educator effectiveness, school district accreditation and accountability, and standards and assessments for preschool through elementary and secondary education.

(3) A BOCES may develop a memorandum of understanding with a school district that is contiguous to the area of the BOCES, but that is not a member of the BOCES, to enable the district to participate with the BOCES in the plan submitted pursuant to subsection (1) of this section. In addition, two or more adjoining BOCES may collaborate regarding the implementation of a plan submitted pursuant to this section.

(4) (a) The department of education shall establish a method to allow the member school districts of a BOCES that chooses not to submit a plan pursuant to paragraph (a) of subsection (1) of this section to submit a plan as a consortium of districts or as a newly formed BOCES to the state board and to receive moneys to assist the districts in implementing and meeting the state educational priorities as determined pursuant to subsection (2) of this section.

(b) A member district of a BOCES that has submitted a plan pursuant to subsection (1) of this section may choose not to participate in the BOCES plan to assist the member districts in implementing and meeting the state's educational priorities. If a member district chooses not to participate, the BOCES shall work with the other member districts in the BOCES to implement the plan.

(5) (a) The general assembly may appropriate moneys to the department of education for the purposes of this section. Of the amount appropriated, the department may retain up



to one hundred twenty thousand dollars annually for the purpose of funding a departmental liaison for rural school districts and up to fifty thousand dollars annually for the purpose of funding the department’s ongoing support of a council created by the commissioner of education that advises the commissioner and the department regarding the needs and concerns of rural school districts. The department shall distribute the remaining amount as specified in paragraph (b) of this subsection (5).

(b) The department of education shall distribute the remaining amount appropriated by the general assembly for the purposes of this section, after subtracting the amounts specified in paragraph (a) of this subsection (5), as follows:

(I) Equally distribute forty-five percent to the BOCES that submit plans pursuant to subsection (1) of this section;

(II) Distribute forty-five percent based on the total number of member school districts of the participating BOCES and nonmember school districts that participate with the BOCES as detailed in a memorandum of understanding entered into pursuant to subsection (3) of this section; and

(III) Distribute ten percent based on the total number of students enrolled in the member school districts of the participating BOCES and enrolled in the nonmember school districts that participate with the BOCES as detailed in a memorandum of understanding entered into pursuant to subsection (3) of this section.

(c) Any state moneys appropriated by the general assembly for the purposes of this section shall not be used to supplant the level of state moneys appropriated to support and for use by BOCES during the 2011-12 fiscal year.

(6) The state board shall promulgate rules pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., for the administration of this section.

(7) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, a program to assist school districts in implementing and meeting the state’s educational priorities is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 717, § 5, effective May 19.

ARTICLE 5.5

Regional Service Areas Act

22-5.5-101.	Short title.		tablishment - plan - gover-
22-5.5-102.	Legislative declaration.		nance.
22-5.5-103.	Definitions.	22-5.5-106.	Funding.
22-5.5-104.	Regional service areas - cre-	22-5.5-107.	Regional service areas - pro-
	ation - rules.		grams and services.
22-5.5-105.	Regional service areas - es-	22-5.5-108.	Reporting requirements.

**22-5.5-101. Short title.** This article shall be known and may be cited as the “Regional Service Areas Act”.

**Source: L. 2008:** Entire article added, p. 1693, § 1, effective June 2.

**22-5.5-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Colorado should align its education system to maximize the state’s limited resources in improving student achievement and closing the learning gap;

(b) One of the most effective ways to align the state’s education system and maximize resources is to expand the department of education’s eight existing regional service areas to twelve regional service areas, and to include in the expansion process representation from community and junior colleges, technical colleges, state institutions of higher education, early childhood councils, and business and industry;

(c) Colorado experimented with successful results with regional consortiums for professional development during 2000 and 2001 as a means to deliver professional development programs across school district lines in an efficient and effective manner;

(d) Regions can serve as an efficient and effective link between the state, the department of education, boards of cooperative services, administrative units, school districts, state institutions of higher education, and business and industry to leverage and implement scarce resources for education reform initiatives at state, regional, and local levels;

(e) A regional service area system would extend and expand service delivery in many areas, including but not limited to data centers, financial services, cooperative purchases, technological support, capital construction planning assistance, dropout prevention, early childhood and preschool programs, postsecondary partnerships and student transitions into postsecondary schools, professional development, curriculum and instructional expertise and support, and shared administration and services among school districts;

(f) Funding for regional service areas should be consistent and sustainable over time;

(g) School districts, boards of cooperative services, administrative units, community colleges, junior colleges, technical colleges, postsecondary institutions, early childhood councils, and representatives from business and industry located within the same geographic area should work collaboratively to develop a regional plan that meets the needs of participants in order to increase the effectiveness of a regional system.

(2) The general assembly therefore declares that it is in the best interest of the state of Colorado and its citizens to assist in providing a thorough and uniform educational system by creating a system of regional service areas that utilizes existing relationships to provide programs and services beyond the boundaries of the current twenty-one boards of cooperative services, fifty-seven administrative units, and one hundred seventy-eight school districts.

(3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the establishment of twelve regional service areas which will effectively align the state's education system and maximize resources is a critical element of accountable education reform, accountable programs to meet state academic standards, expanding technology education, improving student safety, expanding the availability of preschool and kindergarten programs, and accountability reporting and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1693, § 1, effective June 2.

**22-5.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrative unit" means a school district, a board of cooperative services, or the state charter school institute, that is providing educational services to exceptional children.

(2) "Board" means the board of education of a school district.

(3) "Board of cooperative services" means a regional educational service unit created pursuant to article 5 of this title.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "Postsecondary institution" means a community or technical college, a junior college, or a state-supported institution of higher education.

(5.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(6) "Regional service area" means one of twelve regional service areas created pursuant to section 22-5.5-104.

(7) "Regional service council" means the governing body of a regional service area plan, which governing body is established pursuant to section 22-5.5-105.

(8) "School district" means a school district existing pursuant to law.

(9) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.



**Source:** L. 2008: Entire article added, p. 1695, § 1, effective June 2. L. 2012: (5.5) added, (HB 12-1090), ch. 44, p. 150, § 4, effective March 22.

**22-5.5-104. Regional service areas - creation - rules.** (1) On or before December 1, 2008, the state board, in consultation with the department, school districts, and boards of cooperative services, shall divide the state into twelve regional service areas throughout the state. Each regional service area shall consist of at least two school districts and one or more boards of cooperative services.

(2) The state board and the department shall consult with the department of higher education and the governor's office to establish the state's education initiatives, including priorities for preschool through postsecondary education.

(3) On or before December 1, 2008, the state board shall promulgate rules for the development, expansion, implementation, and management of the regional service areas created pursuant to this article.

**Source:** L. 2008: Entire article added, p. 1695, § 1, effective June 2.

**22-5.5-105. Regional service areas - establishment - plan - governance.** (1) (a) Following the creation of the twelve regional service areas by the state board pursuant to section 22-5.5-104, but on or before June 30, 2009, individuals in a regional service area may organize a regional service area. Participants in a regional service area may include, but need not be limited to, representatives from school districts, boards of cooperative services, administrative units, early childhood councils, postsecondary institutions, business and industry, other education agencies in the regional service area, teachers, and parents. A regional service area plan shall be governed by no more than one regional service council.

(b) Participation by school districts or boards of cooperative services in a regional service area is voluntary.

(2) (a) Each plan for a regional service area shall be administered by a locally appointed regional service council, representing the following entities within the regional service area and composed of a minimum of five members; except that a regional service council initially formed or reorganized on or after August 5, 2009, shall be composed of a minimum of six members as follows:

(I) Each participating board of cooperative services shall appoint at least one council member. A board of cooperative services that has more than five member districts shall appoint an additional council member. The terms shall run coterminously with the council member's term on his or her board.

(II) Each board of cooperative services superintendent advisory council within a regional service area shall appoint two superintendents or their designees to serve on the regional service council. A superintendent advisory council that has more than five members shall appoint an additional superintendent or his or her designee to the regional service council. The superintendents or their designees shall each represent a participating school district.

(III) Each school district that chooses to participate in the regional service area and that is not a member of a board of cooperative services within the regional service area shall appoint one board member, superintendent, or designee to the regional service council. The terms shall run coterminously with the council member's term on his or her board, if applicable.

(IV) The regional service council, within ninety days after its initial formation and each time the regional service council reorganizes thereafter, shall appoint one council member representing business and industry, one council member representing each existing early childhood council from within the regional service area, and, for a regional service council initially formed or reorganized on or after August 5, 2009, one council member who is a parent of a student enrolled in a public preschool, elementary, secondary, or postsecondary institution located within the regional service area.



(V) Each four-year institution of higher education, each community college, and each technical college within the regional service area may appoint a trustee or advisory council member, or the president of the institution or his or her designee, to serve on the regional service council.

(VI) The department of education regional manager for the regional service area and the executive director for any board of cooperative services in the regional service area shall serve as ex-officio, nonvoting members of the regional service council.

(b) The regional service council shall have the authority to set terms of office, organize, have meetings, and accept moneys and shall be accountable for funding and programs.

(3) To receive funding pursuant to section 22-5.5-106 (2) and (3), the regional service council on behalf of each regional service area shall submit a plan to the state board for approval on or before June 30, 2009. The plan shall address the needs of large and small school districts within the regional service area and focus on increasing effectiveness and efficiencies in providing education and services throughout the region. The plan shall include, at a minimum:

(a) A list of representatives from various educational agencies and business and industry in the regional service area;

(b) A description of how the regional service area intends to use and develop state, regional, and local expertise;

(c) An outline of available funding sources, including local and regional contributions, federal moneys, and any available state resources;

(d) A description of how the agencies within the regional service area will coordinate and collaborate to enhance effectiveness and efficiencies among and between regional service areas;

(e) A strategy to address the needs of participating school districts within the regional service area;

(f) A budget outlining projected expenditures by the regional service area; and

(g) Accountability criteria associated with the plan, including but not limited to:

(I) Evaluation of alignment with established state priorities;

(II) Rationale for selection of priorities based upon regional needs assessment data;

(III) Goals that are specific, measurable, achievable, and realistic, all within an established time frame;

(IV) Specific outcomes demonstrated with effectiveness and efficiencies;

(V) An evaluation process and criteria; and

(VI) Budget alignment with priorities and activities.

(4) (a) Each regional service council shall submit a plan developed pursuant to subsection (3) of this section to the state board for approval as a prerequisite to the receipt of state moneys pursuant to this article.

(b) On or before August 1, 2009, the state board shall notify each regional service council that submitted a plan for a regional service area of its approval or rejection.

**Source: L. 2008:** Entire article added, p. 1695, § 1, effective June 2. **L. 2009:** IP(2)(a) and (2)(a)(IV) amended, (SB 09-090), ch. 291, p. 1439, § 4, effective August 5.

**22-5.5-106. Funding.** (1) On or before June 30, 2009, a regional service council may apply to the state board on behalf of a regional service area for a one-time grant of up to ten thousand dollars for direct reimbursement of expenses related to the development of the plan for the regional service area. The state board shall provide an applying regional service council with the one-time grant for reimbursement of expenses related to the development of the plan no later than thirty days following the submission of the grant application.

(2) If the plan for a regional service area is approved by the state board pursuant to section 22-5.5-105, on or after July 1, 2009, and annually thereafter, the state board shall award to the regional service area a grant of up to fifty thousand dollars, subject to available appropriations by the general assembly. If available moneys are insufficient to award each eligible regional service area a full fifty-thousand-dollar grant, the state board shall reduce proportionately all grant awards for eligible regional service areas for that year. A regional

service council may choose not to accept funding on behalf of the regional service area if the prorated amount is insufficient to allow the regional service area to function effectively.

(3) In addition to the grants described in subsections (1) and (2) of this section, on or after July 1, 2009, and annually thereafter, the department shall, subject to available appropriations, allocate to each eligible regional service area an amount equal to up to fifty cents per pupil based on the pupil enrollment for each school district in the regional service area as of the pupil enrollment count day of the previous year.

(4) Funding for a regional service area after the first grant pursuant to this section is contingent upon the successful implementation of the regional service area's plan, as evaluated by the state board and the department. The state board shall annually notify each regional service council on or before September 1 regarding whether the regional service area will receive moneys pursuant to subsections (2) and (3) of this section in the coming year and the amounts.

(5) A regional service council may use a maximum of ten percent of the amount annually received by the regional service area for grant management and fiscal oversight. For regions with a total pupil enrollment of less than fifteen thousand students, the regional service council may use up to twenty percent of the amount annually received by the regional service area for grant management and fiscal oversight.

(6) Each regional service council that receives funding on behalf of a regional service area pursuant to subsections (2) and (3) of this section shall submit to the department a revised annual budget on or before March 1, 2010, and on or before March 1 each year thereafter. If a regional service council expects to exceed by more than ten percent the projected expenditures specified in the budget included in the original plan submitted to the state board pursuant to section 22-5.5-105, the regional service council shall seek prior approval for the expenditure from the department.

(6.5) Each regional service council is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this article; except that a gift, grant, or donation shall not be accepted if the conditions attached to the gift, grant, or donation require its expenditure in a manner contrary to law. Any gifts, grants, or donations received by a regional service council shall be submitted directly to the board of cooperative services that is acting as the regional service council's fiscal agent pursuant to subsection (7) of this section.

(7) Each regional service council shall select one board of cooperative services in the regional service area to act as its fiscal agent to receive the moneys from the state treasurer or any gifts, grants, or donations accepted pursuant to subsection (6.5) of this section.

**Source: L. 2008:** Entire article added, p. 1698, § 1, effective June 2. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1908, § 22, effective June 10. **L. 2012:** (3) amended, (HB 12-1090), ch. 44, p. 150, § 5, effective March 22.

**22-5.5-107. Regional service areas - programs and services.** (1) A regional service area may provide any of the following services and programs, including but not limited to:

- (a) Data and assessment centers;
- (b) Shared financial services among school districts and boards of cooperative services;
- (c) Cooperative purchases;
- (d) Technology infrastructure and support;
- (e) Distance, on-line learning, and other alternative learning opportunities for students;
- (f) Precollegiate programs, counseling, and dropout prevention;
- (g) Capital construction planning assistance;
- (h) Curriculum and instructional expertise and support;
- (i) Professional development for teachers and administrators;
- (j) Regional and state initiatives;
- (k) Shared administration and support services for school districts;
- (l) Early childhood and preschool programs; and

(m) Postsecondary partnerships and services to support student transitions into post-secondary schools.

**Source: L. 2008:** Entire article added, p. 1699, § 1, effective June 2.

**22-5.5-108. Reporting requirements.** On or before July 1 of the year following the approval of a regional service area’s plan pursuant to section 22-5.5-105, and on or before January 1 each year thereafter, the regional service council shall submit a written report on behalf of the regional service area to the state board and the department summarizing its activities for the calendar year, especially those activities related to the measurable goals and objectives outlined in the plan, a summary of any efficiencies or improved effectiveness achieved at the district or regional level by the regional service area, and any proposed amendments to the plan originally submitted to the state board pursuant to this article.

**Source: L. 2008:** Entire article added, p. 1700, § 1, effective June 2.

ARTICLE 6

Comprehensive Educational Planning

**22-6-101 to 22-6-113. (Repealed)**

**Source: L. 84:** Entire article repealed, p. 584, § 1, effective March 19.

**Editor’s note:** This article was numbered as article 43 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 7

Educational Accountability

**Editor’s note:** This article was numbered as article 41 of chapter 123 in C.R.S. 1963. This article was amended with relocations in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

PART 1		22-7-302.	Definitions.
LOCAL ACCOUNTABILITY PROGRAMS		22-7-303.	Colorado state advisory council for parent involvement in education - created - membership.
22-7-101 to 22-7-107.	(Repealed)	22-7-304.	Council - advisory duties.
PART 2		22-7-305.	Parent involvement in education grant program - creation - rules - fund - reports.
EDUCATIONAL ACHIEVEMENT		22-7-306.	Repeal of part.
22-7-201 to 22-7-207.	(Repealed)	PART 4	
PART 3		EDUCATION REFORM	
COLORADO STATE ADVISORY COUNCIL FOR PARENT INVOLVEMENT IN EDUCATION		22-7-401.	Legislative declaration.
		22-7-402.	Definitions.
		22-7-403.	Commitment to equity and excellence.
22-7-301.	Legislative declaration.	22-7-404.	State standards and assess-



	ments development and implementation council - creation - membership.	22-7-603.	State data reporting system. (Repealed)
22-7-405.	Powers and duties of the state standards and assessments development and implementation council.	22-7-603.5.	Legislative declaration - measurement of value added to academic progress. (Repealed)
22-7-406.	Adoption of state model content standards, state assessments, and timelines - resource bank.	22-7-603.7.	Academic growth pilot program - legislative declaration - creation. (Repealed)
22-7-407.	Adoption of content standards by districts.	22-7-604.	Academic performance - academic growth of students - rating - designation and methodology - rules. (Repealed)
22-7-408.	Temporary waiver of regulatory requirements. (Repealed)	22-7-604.3.	Academic growth calculation - model - rule-making. (Repealed)
22-7-409.	Assessments.	22-7-604.5.	Alternative education campuses - criteria - application - rule-making.
22-7-410.	Annual public meeting. (Repealed)	22-7-605.	School accountability reports - format - rules. (Repealed)
22-7-411.	Student assessments - study - students whose dominant language is not English - report - repeal. (Repealed)	22-7-606.	School accountability reports - delivery web site. (Repealed)
22-7-412.	Student assessments - study - curriculum-based, achievement college entrance exam - report - repeal. (Repealed)	22-7-607.	School accountability reports - nonpublic schools. (Repealed)
22-7-413.	Student assessments - study - students with individual education programs - report - repeal. (Repealed)	22-7-607.5.	Teacher pay incentive program - repeal. (Repealed)
22-7-414.	State graduation guidelines development council - creation - membership - duties - repeal. (Repealed)	22-7-608.	Low-graded schools. (Repealed)
		22-7-609.	School improvement plans. (Repealed)
		22-7-609.3.	Voluntary restructuring - state board approval. (Repealed)
		22-7-609.4.	Public school restructuring - tracking students. (Repealed)
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PART 5

COLORADO BASIC LITERACY ACT

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22-7-502.	Legislative declaration.	22-7-611.	Closing the achievement gap program - strategies - assistance - criteria - rule-making.
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22-7-705.	Teacher development grant program - application.	22-7-1009.	Diploma endorsements - adoption - revisions.
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## PART 1

### LOCAL ACCOUNTABILITY PROGRAMS

#### 22-7-101 to 22-7-107. (Repealed)

**Source: L. 2009:** Entire part repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**Editor's note:** This article was amended with relocations in 1997, and this part 1 was subsequently repealed in 2009. For amendments to this part 1 prior to its repeal in 2009, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume and the editor's note following the article heading.

## PART 2

### EDUCATIONAL ACHIEVEMENT

#### 22-7-201 to 22-7-207. (Repealed)

**Source: L. 2009:** Entire part repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**Editor's note:** This article was amended with relocations in 1997, and this part 2 was subsequently repealed in 2009. For amendments to this part 2 prior to its repeal in 2009, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume and the editor's note following the article heading.

## PART 3

### COLORADO STATE ADVISORY COUNCIL FOR PARENT INVOLVEMENT IN EDUCATION

**Editor's note:** (1) This article was amended with relocations in 1997, and this part 3 was repealed in 1997 and subsequently recreated and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For additional historical information concerning this article, see the editor's note following the article heading.

(2) Section 17 of chapter 129, Session laws of Colorado 1997 provided for the repeal of this part 3 only if House Bill 97-1253 was enacted and became law. House Bill 97-1253 was signed by the governor May 21, 1997.

(3) The amendments to this part 3 in House Bill 97-1219 were superseded by House Bill 97-1253.

#### 22-7-301. **Legislative declaration.** (1) The general assembly hereby finds that:

(a) Although education reform efforts are ongoing at both the state and local levels, Colorado continues to experience an unacceptably high dropout rate, inequalities in the academic achievement levels of students from different racial and socioeconomic groups, and low rates of enrollment and persistence in postsecondary education;

(b) To accomplish the goals of reducing the dropout rate, reducing the gaps in academic achievement and growth among student groups, and increasing the number of students who continue into higher education following high school graduation or completion, the state must look to additional strategies for improving public education;

(c) Studies show that, when parents are involved as partners with their children's schools, students achieve higher levels of academic performance, students demonstrate



better attendance and homework completion, and students are less likely to drop out of school;

(d) Students from diverse cultural backgrounds tend to perform better academically when their parents and the professionals at their schools collaborate to bridge the gap between the culture at home and that at the school; and

(e) Secondary students whose parents are involved with their schools make better transitions into postsecondary education, maintain the quality of their academic work, and are more like to develop realistic plans for their futures.

(2) The general assembly therefore finds that it is in the best interests of the state to create a state advisory council for parent involvement in education that will review best practices and recommend to policy makers and educators strategies to increase parent involvement in public education, thereby helping to improve the quality of public education and raise the level of students' academic achievement throughout the state.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1426, § 1, effective August 5.

**22-7-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(2) "Close the achievement and growth gap" means to lessen the variance in academic achievement and growth among student groups, as reflected in statewide assessment scores or performance on postsecondary and workforce readiness assessments and in calculations of students' longitudinal academic growth, by improving the academic achievement and growth of students in those groups that are underperforming.

(3) "Council" means the Colorado state advisory council for parent involvement in education created in section 22-7-303.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "National standards for family-school partnerships" means the following research-based standards for family-school partnerships recognized nationally by parent teacher associations:

(a) Families are active participants in the life of the school and feel welcomed, valued, and connected to each other, to school staff, and to what students are learning and doing in the classroom;

(b) Families and school staff engage in regular, meaningful communication about student learning;

(c) Families and school staff continuously collaborate to support students' learning and healthy development both at home and at school and have regular opportunities to strengthen their knowledge and skills to provide said support effectively;

(d) Families are empowered to be advocates for their own and other children to ensure that students are treated fairly and have access to learning opportunities that will support their success;

(e) Families and school staff are equal partners in decisions that affect children and families and together inform, influence, and create policies, practices, and programs; and

(f) Families and school staff collaborate with community members to connect students, families, and staff to expanded learning opportunities, community services, and civic participation.

(6) "Parent" means a child's biological parent, adoptive parent, or legal guardian or another adult person recognized by the child's school as the child's primary caregiver.

(7) "Parent education program" means a program to teach parents strategies and skills for working with their children and the staff of the schools and institutions of higher education in which their children are enrolled.

(8) "Parent involvement grant program" means the parent involvement in education grant program created in section 22-7-305.

(9) “School-based parent information resource center” means a center that provides to parents information on education opportunities for their children, training for parents and families on education issues, and other support services that may be available to parents, such as mental health services, social services, and housing referrals.

(10) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(11) “Student populations that are significantly represented in the state” means student populations that each constitute at least ten percent of the total population of students in the state, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1427, § 1, effective August 5. **L. 2012:** (11) added, (SB 12-160), ch. 204, p. 813, § 2, effective May 24.

**22-7-303. Colorado state advisory council for parent involvement in education - created - membership.** (1) There is hereby created within the department of education the Colorado state advisory council for parent involvement in education. The council shall consist of members appointed as provided in this section and shall have the powers and duties specified in this part 3. The council shall exercise its powers and perform its duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer as defined in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S.

(2) The council shall consist of the following members:

(a) The following members appointed by the state board:

(I) Five persons who are parents of children enrolled in a publicly funded preschool program, in any of grades kindergarten through twelve, or in a state-supported institution of higher education, who reflect student populations that are significantly represented in the state; and two of whom are members of a school accountability committee or a school district accountability committee;

(II) A representative from each of two state-based nonprofit organizations that specialize in promoting the involvement of parents of traditionally underserved populations;

(III) A representative from a nonprofit organization that specializes in promoting the involvement of parents of students with disabilities;

(IV) A representative from a nonprofit organization that partners with funding providers, state agencies, and service providers to assist organizations in providing services to improve the health and well-being of families and children;

(V) A representative of a statewide organization of parents and teachers;

(VI) Repealed.

(VII) A representative of a statewide organization that represents school executives;

(VIII) A representative of a statewide organization that represents members of school district boards of education;

(IX) A representative of a statewide organization that represents teachers;

(X) A representative of a statewide organization that represents charter schools;

(XI) A representative of a statewide organization that represents career and college guidance counselors; and

(XII) Repealed.

(XIII) A person with expertise in early childhood care and education; and

(b) One or more representatives from the department of education, appointed by the commissioner of education, with expertise in the following areas:

(I) Strategies to close the achievement and growth gap;

(II) The program for the education of migrant children described in article 23 of this title;

(III) The English language proficiency program described in article 24 of this title;

(IV) Federal title I programs;

(V) The education of exceptional children, as defined in section 22-20-103 (12); and

(VI) The family literacy education grant program created in section 22-2-124;

(c) Two persons appointed by the executive director of the department of higher education; and

(d) A representative of the department of human services appointed by the executive director of said department.

(3) (a) A person may not be appointed to fill more than one of the member positions required in subsection (2) of this section in a single term. Each appointing authority shall make its initial appointments on or before October 1, 2009. Each member of the council shall serve at the pleasure of the member's appointing authority. The appropriate appointing authority shall fill any vacancies arising during a member's term on the council.

(b) The state board, in appointing members to the council, shall, to the extent practicable, select persons who will reflect the gender balance and ethnic and racial diversity of the state and will provide representation from throughout the state.

(4) The council members appointed pursuant to paragraph (a) of subsection (2) of this section shall serve three-year terms; except that, of the persons initially appointed, the state board shall select four who shall serve initial terms of one year and four who shall serve initial terms of two years.

(5) The state board shall call the first meeting of the council to be held no later than November 15, 2009. At its first meeting, and annually thereafter, the council shall select from among its members a person to serve as chair of the council. The council shall meet upon call of the chair as often as necessary to accomplish its duties as specified in this part 3.

(6) The council members shall serve without compensation and without reimbursement for expenses.

**Source:** **L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1428, § 1, effective August 5. **L. 2011:** (2)(c)(I) amended, (SB 11-245), ch. 201, p. 848, § 6, effective August 10. **L. 2012:** (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(a)(XI), and (2)(c) amended and (2)(a)(VI) and (2)(a)(XII) repealed, (SB 12-160), ch. 204, p. 812, § 1, effective May 24.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(c)(I), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-304. Council - advisory duties.** (1) The council shall inform, at a minimum, the early childhood councils and the early childhood care and education councils created pursuant to article 6.5 of title 26, C.R.S., public schools, school districts, the state charter school institute, the department, the state board, the department of higher education, the Colorado commission on higher education, and the governing boards for the state institutions of higher education concerning best practices and strategies, aligned with the national standards for family-school partnerships, for increasing parent involvement in public education and promoting family and school partnerships, including but not limited to best practices and strategies in the following areas:

(a) Creating and implementing programs to effectively involve parents in improving their children's education and levels of academic achievement. To identify these best practices and strategies, the council shall review the programs implemented in other states and the results of state and national research conducted in this area.

(b) Involving parents in programs to raise academic achievement, increase high school graduation rates, decrease student dropout rates, and close the achievement and growth gap;

(c) Involving parents in response to intervention programs in public schools and school districts;

(d) Involving parents in programs to raise academic achievement, improve the persistence rate, and improve the on-time graduation rate of students enrolled in institutions of higher education;

(e) Increasing parent involvement in education-related committees at the local and state levels;

(f) Designing and implementing parent education programs and centers and parent leadership training programs;

(g) Creating and implementing family-to-school liaison positions; and



- (h) Establishing and implementing school-based parent information resource centers.
- (2) The council shall recommend to the state board and to the Colorado commission on higher education plans for statewide parent involvement initiatives, which may include, but need not be limited to:
  - (a) Requiring each school district and the state charter school institute, as part of the accreditation process, to increase the level of parent involvement in education; and
  - (b) Initiatives to increase admissions to institutions of higher education and the degree-completion rate and to reduce the need for remediation.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1431, § 1, effective August 5.

**22-7-305. Parent involvement in education grant program - creation - rules - fund - reports.** (1) (a) There is hereby created in the department the parent involvement in education grant program to provide moneys to assist public schools in creating and implementing programs to support greater parent involvement in the schools. The council shall assist the department in implementing the parent involvement grant program as provided in this section and shall provide advice to recipient schools to assist them in creating and implementing programs to ensure that the programs reflect the best practices identified by the council pursuant to section 22-7-304.

(b) The school district of a public school, or a board of cooperative services or regional service council that operates a public school, that seeks a grant through the parent involvement grant program shall apply on behalf of the public school; except that, if the public school is a charter school, the public school may apply on its own behalf. To be eligible to receive a grant, a public school shall meet one or more of the following criteria:

(I) A significant percentage, as defined by rule of the state board, of the students enrolled in the public school for the three academic years immediately preceding application were:

(A) Eligible for free or reduced-cost lunch pursuant to the provisions of the federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq.; or

(B) Students with limited English proficiency, as defined in section 22-24-103 (4);

(II) The dropout rate for the public school for each of the three academic years immediately preceding application exceeded the state average dropout rate for each respective year by a percentage established by rule of the state board;

(III) For each of the three academic years immediately preceding application, the statewide assessment scores of students enrolled in the public school demonstrated that:

(A) A significant achievement or growth gap, as defined by rule of the state board, existed among identified groups of students; or

(B) The school was an academically underperforming school, as defined by rule of the state board.

(c) The programs that a recipient school may fund with grant moneys received through the parent involvement grant program shall include, but need not be limited to, programs to establish:

(I) Family-to-school liaison positions;

(II) Parent leadership training opportunities;

(III) Centers to provide parent education programs; and

(IV) School-based parent information resource centers.

(2) The state board shall promulgate rules pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., as necessary for implementation of the parent involvement grant program, including but not limited to:

(a) Rules as specified in paragraph (b) of subsection (1) of this section and subsection (5) of this section;

(b) Rules establishing the time frames for submission and review of applications and selection of recipient schools;

(c) Rules specifying the information to be included in grant applications; and

(d) Rules identifying any criteria for selection of recipient schools in addition to the criteria specified in paragraph (b) of subsection (1) of this section.

(3) The council shall review the grant applications received pursuant to this section and shall recommend recipient schools and the grant amounts to the state board. Subject to available appropriations, the state board shall annually award grants through the parent involvement grant program, which grants shall be paid from the parent involvement grant program fund created in subsection (4) of this section.

(4) (a) There is hereby created in the state treasury the parent involvement grant program fund, referred to in this subsection (4) as the “fund”, that shall consist of such moneys as may be credited to the fund pursuant to paragraph (b) of this subsection (4). The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the parent involvement grant program. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund as of June 30, 2019, shall be transferred to the general fund.

(b) The council shall seek and may accept gifts, grants, and donations from private or public sources for the purposes of the parent involvement grant program; except that the council shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this part 3 or any other law of the state. The council shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(c) Notwithstanding any provision of this section to the contrary, the state board and the department shall not implement the parent involvement grant program until such time as there is at least twenty thousand dollars credited to the fund.

(d) In any fiscal year in which there is at least twenty thousand dollars credited to the fund, the department may use up to one percent of the moneys credited to the fund to offset the costs incurred in implementing the parent involvement grant program.

(5) (a) Beginning in the budget year following the first budget year in which the state board awards grants pursuant to this section, each recipient school shall annually submit to the council and the department, in accordance with timelines specified by rule of the state board, a report summarizing the amount of moneys received in the preceding fiscal year from the parent involvement grant program, the manner in which the moneys were used, and the results achieved through the use of the moneys. The report shall include such additional information as may be required by rule of the state board.

(b) On or before March 15 of the first year in which the council receives reports pursuant to paragraph (a) of this subsection (5), and on or before March 15 each year thereafter, the council shall summarize the reports received pursuant to paragraph (a) of this subsection (5) and submit the summary, with any additional pertinent information, to the state board and the education committees of the house of representatives and the senate, or any successor committees.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1432, § 1, effective August 5. **L. 2010:** (1)(b)(I)(B) amended, (SB 10-062), ch. 168, p. 594, § 7, effective April 29; (4)(d) amended, (HB 10-1422), ch. 419, p. 2075, § 37, effective August 11.

**22-7-306. Repeal of part.** (1) This part 3 is repealed, effective July 1, 2019.

(2) Prior to said repeal, the council shall be reviewed as provided in section 2-3-1203, C.R.S.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1434, § 1, effective August 5.



## PART 4

## EDUCATION REFORM

**22-7-401. Legislative declaration.** The general assembly hereby finds and declares that, because children can learn at higher levels than are currently required of them, it is the obligation of the general assembly, the department of education, school districts, educators, and parents to provide children with schools that reflect high expectations and create conditions where these expectations can be met. Through a shared sense of accountability and a cooperative spirit among state government, school districts, educators, parents, business persons, and the community, school districts and educators can develop and teach to high standards which will enable students to achieve the highest level of knowledge and skills. The general assembly further declares that this system of standards-based education will serve as an anchor for education reform, with the focus of education including not just what teachers teach, but what students learn. In addition, standards-based education will advance equity, will promote assessment of student learning, and will reinforce accountability. The general assembly therefore charges school districts with the responsibility to develop content standards, programs of instruction, and assessments that reflect the highest possible expectations. The general assembly further declares that the ultimate goal of this part 4 is to ensure that Colorado's schools have standards which will enable today's students of all cultural backgrounds to compete in a world economy in the twenty-first century.

**Source: L. 97:** Entire article amended with relocations, p. 449, § 1, effective August 6.

**Editor's note:** This section is similar to former § 22-53-401 as it existed prior to 1997.

**22-7-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Assessments" means the methods used to collect evidence of what a student knows or is able to do.

(2) "Board" means the state board of education.

(3) "Commission" means the Colorado commission for achievement in education created in section 22-53-301, as it existed prior to August 6, 1997.

(4) "Content standard" means a compilation of specific statements of what a student should know or be able to do relative to a particular academic area.

(5) "Council" means the state standards and assessments development and implementation council.

(6) "Department" means the department of education.

(7) "District" means any public school district organized under the laws of Colorado, except a junior college district.

(8) "District board" means the board of education of a school district.

(8.5) "Exceptional students" means those students defined in section 22-20-103 (5) as children with disabilities and students defined in section 22-20-202 (6) as gifted children.

(9) "Performance level" means the level of achievement by a student on an assessment relative to a content standard. The acceptable performance level recommended by the council, pursuant to section 22-7-405 (2), and adopted by the board, pursuant to section 22-7-406 (3), and the acceptable performance level adopted by any district, pursuant to section 22-7-407 (2), shall mean the student has the subject matter knowledge and analytical skills necessary to succeed at subsequent grade levels. For graduating students, such acceptable performance level shall mean the student has the subject matter knowledge and analytical skills that all high school graduates should have for democratic citizenship, responsible adulthood, postsecondary education, and productive careers.

(10) "Programs of instruction" means a description of the educational experiences and curriculum which will enable students to achieve content standards.

(11) "Standards-based education" means a system of instruction focused on student learning of content standards. This system aligns programs of instruction and assessments



with the content standards. The implementation of “standards-based education” shall not require districts to abandon the use of Carnegie units, to abandon a letter grade system, to adopt outcome-based methods of teaching, or to use student portfolios in place of assessments. In addition, implementation of “standards-based education” shall not require changes in current class schedules and does not encourage block scheduling or other experimental methods of class scheduling.

**Source: L. 97:** Entire article amended with relocations, p. 449, § 1, effective August 6; (3) amended, p. 949, § 5, effective August 6. **L. 2007:** (8.5) amended, p. 1568, § 12, effective May 31. **L. 2011:** (8.5) amended, (HB 11-1077), ch. 30, p. 84, § 13, effective August 10.

**Editor’s note:** (1) This section is similar to former § 22-53-402 as it existed prior to 1997.

(2) Subsection (3) was originally numbered as § 22-53-402 (3), and the amendments to it in House Bill 97-1253 were harmonized with subsection (3) as relocated in this section by House Bill 97-1219.

**22-7-403. Commitment to equity and excellence.** (1) All activities undertaken pursuant to this part 4 shall reflect a strong commitment to equity and excellence on the part of the council, the department, the board, and districts. The council, in the development and recommendation of state model content standards, state assessments, and model professional educator development materials and pilot programs pursuant to section 22-7-405, the board in the adoption of the state model content standards and state assessments pursuant to section 22-7-406, and districts in the adoption of content standards and implementation plans pursuant to section 22-7-407 shall consciously avoid gender or cultural bias and shall actively address the needs of systems and methods for the education of exceptional students.

(2) Every resident of the state six years of age or older but under twenty-two years of age has a fundamental right to a free public education that assures that such resident shall have the opportunity to achieve the content standards adopted pursuant to this part 4 at a performance level which is sufficient to allow such resident to become an effective citizen of Colorado and the United States, a productive member of the labor force, and a successful lifelong learner.

**Source: L. 97:** Entire article amended with relocations, p. 450, § 1, effective August 6.

**Editor’s note:** This section is similar to former § 22-53-403 as it existed prior to 1997.

**22-7-404. State standards and assessments development and implementation council - creation - membership.** (1) (a) There is hereby created, within the department of education, the state standards and assessments development and implementation council which shall consist of nine members appointed by the governor with the consent of the senate. Members of the council shall be residents of Colorado and shall be appointed for terms of three years; except that, of the members first appointed, three members shall serve for terms of one year, three members shall serve for terms of two years, and three members shall serve for terms of three years. No person shall be appointed to serve more than two consecutive three-year terms.

(b) Members of the council shall include experts in the areas of curriculum, student learning, instruction, assessments, and professional educator development. Members of the council shall represent all areas of the state, including urban and rural areas and large and small districts and shall represent the ethnic and cultural diversity and gender balance of the state. At least one council member shall be a resident of the western slope and at least one council member shall have expertise in addressing the needs of exceptional students.

(2) Any member of the council may be removed at any time for cause by the governor. If any member of the council vacates the office, a vacancy on the council shall exist and the governor shall fill such vacancy by appointment for the remainder of such vacating member’s term.

(3) Members of the council shall be reimbursed by the department for their actual and necessary expenses incurred in the performance of their duties pursuant to this part 4.

(4) The department shall provide such office space, equipment, and staff services to the council as may be necessary for the council to carry out its powers and duties as set forth in this part 4. In addition, the council may request assistance as necessary from any other state agency.

**Source: L. 97:** Entire article amended with relocations, p. 451, § 1, effective August 6.  
**L. 2006:** (3) amended, p. 597, § 8, effective August 7.

**Editor's note:** This section is similar to former § 22-53-404 as it existed prior to 1997.

**22-7-405. Powers and duties of the state standards and assessments development and implementation council.** (1) (a) On or before April 1, 1995, the council shall develop and recommend to the board for adoption first priority state model content standards in the areas of reading, writing, mathematics, science, history, and geography. As a second priority, the council shall develop and recommend to the board for adoption state model content standards in the areas of art, music, physical education, foreign languages, economics, and civics.

(b) In developing such state model content standards, the council shall heavily utilize and rely upon the expertise of district personnel and other education experts.

(c) In developing state model content standards, the council, in collaboration with the board, shall, following appropriate public notice, hold a series of at least six public meetings throughout the state at which it shall hear testimony regarding such state model content standards. The council shall also specifically seek recommendations from and shall work in cooperation with districts, educators, parents, students, representatives from postsecondary education, business persons, and members of the general community who are representative of the cultural diversity of the state. In addition, in developing the state model content standards, the council shall consider national content standards, such as those adopted by the national council of teachers of mathematics, the national council for geographic education and the national geographic society, and the national science foundation, the national academy of science, and the national science teachers association, and content standards adopted in other states.

(d) In recommending state model content standards for adoption by the board, the council shall also recommend to the board, the joint budget committee, and the house and senate education committees a plan for the implementation of standards-based education which shall include, but shall not be limited to, the following:

(I) Proposed timelines for districts to adopt first and second priority content standards and implementation plans and to begin assessing students pursuant to the provisions of section 22-7-407;

(II) A summary of the fiscal impact of the implementation of standards-based education at the state and local levels and proposed funding amounts and sources, including additional funding and the reallocation of existing funds, as necessary for the implementation of standards-based education pursuant to this part 4 at both the state and district levels; and

(III) Proposed model professional educator development materials and programs and pilot professional educator development programs for use by districts at their discretion.

(2) Following adoption of the state model content standards by the board pursuant to section 22-7-406 (1), the council shall develop and recommend to the board state assessments in the areas of reading, writing, mathematics, and science that are aligned with the state model content standards and that, following adoption by the board, shall be administered statewide by the department pursuant to the provisions of section 22-7-409. The council shall also recommend an acceptable performance level on each such state assessment. Such performance level shall be continuously reexamined.

(3) The council may, at its discretion, contract with any district or consortium of districts or with any individual, group, or corporation with expertise in education for the development of state model content standards and state assessments. Any such contract shall be subject to approval by the board.



(4) Following adoption of the state model content standards and state assessments by the board, the council shall review and recommend to the board revisions of the state model content standards, the state assessments, and the model professional educator development materials, programs, and pilot programs as necessary to maintain the maximum effectiveness of the state model content standards, state assessment standards, and recommended model professional educator development materials, programs, and pilot programs. In preparing any recommended revisions, the council shall seek recommendations from and shall work in cooperation with educators, parents, students, business persons, and members of the general community who are representative of the cultural diversity of the state.

**Source: L. 97:** Entire article amended with relocations, p. 451, § 1, effective August 6; (1)(c) and IP(1)(d) amended, p. 949, § 6, effective August 6; (2) amended, p. 597, § 37, effective August 6.

**Editor's note:** (1) This section is similar to former § 22-53-405 as it existed prior to 1997.

(2) Subsections (1)(c) and (1)(d) were originally numbered as § 22-53-405 (1)(c) and (1)(d), and the amendments to them in House Bill 97-1253 were harmonized with subsections (1)(c) and (1)(d) as relocated in this section by House Bill 97-1219.

**22-7-406. Adoption of state model content standards, state assessments, and timelines - resource bank.** (1) (a) On or before September 15, 1995, the board, after careful consideration of the recommendations of the council and in consultation with the commission, shall adopt first priority state model content standards in the areas of reading, writing, mathematics, science, history, and geography. As a second priority, the board, after careful consideration of the recommendations of the council, shall adopt state model content standards in the areas of art, music, physical education, foreign languages, economics, and civics.

(b) Following adoption of the state model content standards pursuant to paragraph (a) of this subsection (1), the board, after careful consideration of the recommendations of the council, shall adopt revised state model content standards and revised state assessments as necessary to maintain the effectiveness of such state model content standards and state assessments.

(c) In the process of revising and adopting the state content standards pursuant to section 22-7-1005, the board shall adopt standards for financial literacy that address, at a minimum, the financial literacy topics specified in section 22-2-127 (1). Following adoption of the financial literacy standards, the board shall identify the financial literacy standards that are appropriately assessed within a mathematics assessment and shall ensure that the identified standards are assessed within the mathematics assessments administered as part of the system of assessments adopted pursuant to section 22-7-1006. Inclusion of one or more financial literacy standards within a mathematics assessment shall not prevent the board from assessing the remaining financial literacy standards within one or more other assessments.

(2) On or before September 15, 1995, the board, after careful consideration of the recommendations of the council and in consultation with the commission and the joint budget committee, shall adopt timelines:

(a) Specifying the time by which districts shall adopt first and second priority content standards and implementation plans pursuant to the provisions of section 22-7-407; and

(b) Specifying the time by which districts shall begin to assess students in the subject areas that are not tested by the state pursuant to section 22-7-409.

(3) On or before June 1, 1996, the board, after careful consideration of the recommendations of the council, shall adopt state assessments in the areas of reading, writing, mathematics, and science which are aligned with the state model content standards and shall specify an acceptable performance level on each such state assessment. Such performance level shall be continuously reexamined. In addition, the board may, at its discretion, adopt additional performance levels.

(4) The board and the joint budget committee may, with written comments, refer any recommendations received pursuant to section 22-7-405 back to the council for further review.



(5) The board shall establish a resource bank which shall include the state model content standards. In addition, the resource bank shall include national model standards, model programs of instruction, model assessments, and model materials for professional educator development which are collected from districts, from national organizations, and from other states for use as examples by districts at their discretion. All items included in the resource bank shall explicitly address systems and methods for the education of exceptional students. Any model assessments included in the resource bank shall include all normal format modifications that are used for exceptional students. Resource bank materials shall be available for use on or before June 1, 1995.

**Source: L. 97:** Entire article amended with relocations, p. 453, § 1, effective August 6; (1) and (4) amended, p. 950, § 7, effective August 6; (2)(b) and (3) amended, p. 598, § 38, effective August 6. **L. 2008:** (1)(c) added, p. 2275, § 3, effective June 5.

**Editor's note:** (1) This section is similar to former § 22-53-406 as it existed prior to 1997.

(2) Subsections (1) and (4) were originally numbered as § 22-53-406 (1) and (4), and the amendments to them in House Bill 97-1253 were harmonized with subsections (1) and (4) as relocated in this section by House Bill 97-1219.

**22-7-407. Adoption of content standards by districts.** (1) In accordance with timelines adopted by the board pursuant to section 22-7-406 (2), but not later than January 1, 1997, each district shall adopt first priority content standards in the areas of reading, writing, mathematics, science, history, and geography which meet or exceed the state model content standards adopted pursuant to section 22-7-406 (1). In accordance with timelines adopted by the state board, districts shall also adopt second priority content standards in the areas of art, music, physical education, foreign languages, economics, and civics. Content standards may be adopted for each grade level or may be adopted for groupings of grade levels. In adopting content standards, each district shall seek input from and shall work in cooperation with educators, parents, students, business persons, members of the general community who are representative of the cultural diversity of the district, and the district's accountability committee created pursuant to section 22-11-301.

(2) Following adoption of content standards pursuant to this section, the district shall develop a plan for:

(a) Revising curriculum and programs of instruction to align them with adopted content standards and to ensure that each student will have the educational experiences needed to achieve the adopted content standards;

(b) Developing assessments that will adequately measure each student's progress toward and achievement of the adopted content standards for the subject areas that are not tested by the state pursuant to section 22-7-409, including specification of an acceptable performance level. Such performance level shall be continuously reexamined.

(c) Administering assessments developed pursuant to paragraph (b) of this subsection (2) to students;

(d) Addressing the different learning styles and needs of students of various backgrounds and abilities and eliminating barriers to equity which exist within public schools within the district; and

(e) Providing professional educator development in standards-based education.

(3) The plan adopted pursuant to subsection (2) of this section shall specifically address the education of exceptional students. In addition, such plan shall adopt timelines for the implementation of standards-based education pursuant to this part 4.

(4) (a) Following adoption of content standards pursuant to this section, each district shall review and revise the content standards as necessary to maintain maximum effectiveness. In revising the content standards, each district shall seek recommendations from and shall work in cooperation with educators, parents, students, business persons, members of the general community who are representative of the cultural diversity of the district, and the district's accountability committee created pursuant to section 22-11-301.

(b) In revising and adopting district standards pursuant to section 22-7-1013, each district shall adopt standards for financial literacy that address, at a minimum, the financial

literacy topics specified in section 22-2-127 (1). Each district shall also revise its curricula as required in section 22-7-1013 (2) to ensure that the curricula include financial literacy in the district's programs of study, and each district shall adopt assessments that are aligned with the financial literacy standards. A district may include assessment of financial literacy standards within assessments that address standards in other subject areas.

(5) Following adoption of content standards, each school district shall, through written materials and public meetings, inform parents of students enrolled in such district of the application and effect of such content standards and standards-based education, including how students' progress in achieving content standards will be measured and how parents will be informed of such progress. Such information shall also be provided to the district accountability committee and the school accountability committees within such district.

(6) Any individualized education program which is developed for a student with disabilities pursuant to section 22-20-108 (4) shall specify whether such student shall achieve the district's adopted standards or whether such student shall achieve individualized standards which would indicate the student has met the requirements of such student's individualized education program.

**Source: L. 97:** Entire article amended with relocations, p. 454, § 1, effective August 6; (2)(b) and (2)(c) amended, p. 598, § 39, effective August 6. **L. 2002:** (1), (4), and (5) amended, p. 1018, § 26, effective June 1. **L. 2008:** (4) amended, p. 2275, § 4, effective June 5. **L. 2009:** (1), (4)(a), and (5) amended, (SB 09-163), ch. 293, p. 1530, § 14, effective May 21.

**Editor's note:** This section is similar to former § 22-53-407 as it existed prior to 1997.

#### **22-7-408. Temporary waiver of regulatory requirements. (Repealed)**

**Source: L. 97:** Entire article amended with relocations, p. 455, § 1, effective August 6. **L. 2000:** Entire section repealed, p. 373, § 27, effective April 10.

**Editor's note:** This section was similar to former § 22-53-408 as it existed prior to 1997.

**22-7-409. Assessments.** (1) Beginning in the spring semester 1997, the department shall implement the Colorado student assessment program under which the department shall administer statewide assessments adopted by the board pursuant to section 22-7-406 in the first priority areas of reading, writing, mathematics, and science. The department shall administer the English versions of the state assessments and may administer any assessments adopted by the board in languages other than English, as may be appropriate for students with limited English proficiency; except that any student who has participated in the English language proficiency program, created pursuant to section 22-24-104, for more than a total of three school years shall be ineligible to take the assessments in a language other than English. The statewide assessments shall be administered according to the following implementation schedule:

(a) Beginning in the spring semester 1997, and each spring semester thereafter, the department shall administer a statewide assessment in reading and writing to all students enrolled in fourth grade in public schools throughout the state.

(b) Beginning in the spring semester 1998, and each spring semester thereafter, the department shall administer a statewide assessment in reading to all students enrolled in the third grade in public schools throughout the state.

(c) (I) Beginning in the fall semester 1999, the department shall administer a statewide assessment in mathematics to all students enrolled in the fifth grade in public schools throughout the state.

(II) Beginning in the spring semester 2001, and each spring semester thereafter, the department shall administer a statewide assessment in mathematics to all students enrolled in the fifth grade in public schools throughout the state.



(d) Beginning in the spring semester 1999, and each spring semester thereafter, the department shall administer a statewide assessment in reading and writing to all students enrolled in the seventh grade in public schools throughout the state.

(d.5) Beginning in the spring semester 2000, and each spring semester thereafter, the department shall administer a statewide assessment in mathematics and science to all students enrolled in the eighth grade in public schools throughout the state.

(e) Beginning in the spring semester 2001, and each spring semester thereafter, the department shall administer a statewide assessment in reading to all students enrolled in the fifth, sixth, eighth, and ninth grades in public schools throughout the state and in reading, writing, and mathematics to all students enrolled in the tenth grade in public schools throughout the state.

(f) Beginning in the spring semester 2002, and each spring semester thereafter, the department shall administer a statewide assessment in writing to all students enrolled in the third, fifth, sixth, eighth, and ninth grades in public schools throughout the state and in mathematics to all students enrolled in the sixth, seventh, and ninth grades in public schools throughout the state.

(g) (I) If sufficient moneys are received from the federal government through the federal "No Child Left Behind Act of 2001", Public Law 107-110, to pay for the development and administration of the assessments, beginning in the spring semester 2006 at the latest, and each spring semester thereafter, the department shall administer a statewide assessment first in mathematics to all students enrolled in the third and fourth grades and in science to all students enrolled in the fifth and tenth grades in public schools throughout the state.

(II) The assessments described in this paragraph (g) shall only be developed or administered to the extent that federal moneys are received to pay for such development and administration. It is the intent of the general assembly that no state moneys shall be used to develop or administer the assessments described in this paragraph (g).

(1.1) (a) Upon request by a school district or institute charter school, the entity responsible for developing a statewide assessment shall return to the school district or institute charter school the student responses to the essay and appropriate paragraphs from the writing portion of the statewide assessment, along with the results of all requested assessments. The school district or institute charter school making the request shall pay the entity for the actual cost of photocopying and mailing the writing portion of the statewide assessment for the exclusive and confidential use of improving an individual student's writing skills.

(b) Repealed.

(1.2) (a) (I) The assessments required by subsection (1) of this section shall be aligned with the model content standards adopted by the state board pursuant to section 22-7-406. The assessments shall be conducted during the period beginning the second Monday in March and ending on the third Monday in April of each year. The department shall provide to each public school results of all assessments administered, as provided in subparagraph (I.5) of this paragraph (a), and align the disaggregation of those results with the exclusion of scores permitted by subparagraph (I) of paragraph (d) of this subsection (1.2).

(I.5) On and after May 24, 2002, the department shall ensure that the assessments administered pursuant to this section are designed to generate results in a form that will enable students, parents or legal guardians, teachers, schools, and school districts to use the results as diagnostic tools to assist in preparing strategies for student academic improvement in specific areas. In addition, the department shall ensure that the assessments and the form in which the assessment results are reported reflect the recommendations of the task force appointed by the governor to review the assessment reporting format and use of the assessment results. It is the intent of the general assembly that the department implement the provisions of this subparagraph (I.5) within available resources and without requesting additional resources following receipt of the recommendations of the governor's task force.

(II) The department shall make available to school districts and institute charter schools the assessment data of individual students required to measure academic progress over time. The state board shall ensure that the assessments administered pursuant to subsection (1) of this section shall be a combination of constructed response and selected response tasks that



require the student to produce information or perform tasks in a way that the student's skills and competencies can be measured.

(III) At any time that the department releases assessment results to the public, in addition to releasing the results of the English versions of the assessments, the department shall release the results of any assessments administered in languages other than English.

(IV) The department shall create, maintain, and make available to school districts, schools, and parents or legal guardians, upon request, a list of resources and programs that schools and parents or legal guardians may access to assist students in addressing specific learning issues identified by the assessment results provided pursuant to this subsection (1.2).

(V) Each district board and the state charter school institute shall adopt policies to ensure that appropriate personnel within the district and each institute charter school, respectively, share with and explain to the parent or legal guardian of each student enrolled in the school district or the institute charter school the student's assessment results and diagnostic reporting returned to the student's public school pursuant to subparagraph (I.5) of this paragraph (a).

(b) Starting with the assessments to be given in the spring of 2002, the assessments shall be designed so that each assessment test shall take no more than four hours to complete; except that this limitation shall not apply to the curriculum-based, achievement college entrance examination.

(c) Repealed.

(d) (I) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (I), every student enrolled in a public school shall be required to take the assessments administered pursuant to subsection (1) of this section at the grade level in which the student is enrolled, as determined by the school district.

(B) Any student who is eligible for the state's alternate assessment for students with disabilities, also known as the "CSAP-A", or other assessment approved by rule by the board according to the annual review of the student's individualized education program pursuant to section 22-20-108 shall not be required to take the assessments administered pursuant to subsection (1) of this section, but shall instead take the CSAP-A or the other approved assessment. The results of any CSAP-A or other approved assessment shall be reported to the department and aggregated separately for each school.

(I.5) The department, by policy, may determine whether the scores of one or more groups of students are not appropriate to be used in measuring the levels of attainment on the performance indicators, as defined in section 22-11-103 (23). Any policy adopted pursuant to this subparagraph (I.5) shall be in accordance with the requirements of federal statutes and regulations.

(II) Any student with a disability who is not eligible for the CSAP-A or other approved assessment but who has an individualized education program pursuant to section 22-20-108 shall be assessed in each CSAP area at the grade level in which the student is enrolled. If, as part of a student's individualized education program, a student attends part-time a school or program away from the school in which the student is enrolled, the school district in which a student is enrolled, or, in the case of a board of cooperative services, the administrative unit, may designate either the school of residency or the school of attendance as the school to which the scores of the student will be assigned for purposes of measuring the levels of attainment on the performance indicators specified in section 22-11-204, determining accreditation categories pursuant to section 22-11-208, and measuring public school performance pursuant to section 22-11-210.

(III) Nothing in this section shall be construed as requiring a child enrolled in a nonpublic school or participating in a nonpublic home-based educational program pursuant to section 22-33-104.5 to take an assessment or exam administered pursuant to this section, even though the child may also be attending a public school for a portion of the school day and therefore included in the pupil enrollment of a district.

(1.3) (a) The department shall permit a nonpublic school to administer the assessments required by subsection (1) of this section and shall provide to the nonpublic school the results of any assessments administered, including diagnostic reporting for each student's performance on each assessment as described in subparagraph (I.5) of paragraph (a) of

subsection (1.2) of this section. The nonpublic school shall be required to pay all costs associated with administering and providing results for such assessments.

(b) A school district, upon the request of the parent or legal guardian of a child who is participating in a nonpublic home-based educational program pursuant to section 22-33-104.5, shall permit such child to take any assessment required by subsection (1) of this section and shall provide to the parent or legal guardian of the child the results of any assessments administered, including diagnostic reporting for such child's performance on each assessment as described in subparagraph (I.5) of paragraph (a) of subsection (1.2) of this section. The parent or legal guardian of such a child shall be required to pay all costs associated with administering and providing results for such assessments.

(1.5) (a) Beginning in the spring semester 2001, and each spring semester thereafter, all students enrolled in the eleventh grade in public schools throughout the state shall be required to take a standardized, curriculum-based, achievement, college entrance examination selected by the department, administered throughout the United States, and relied upon by institutions of higher education that, at a minimum, tests in the areas of reading, writing, mathematics, and science, referred to in this section as the "curriculum-based, achievement college entrance exam". The department shall pay all costs associated with administering the curriculum-based, achievement college entrance exam.

(b) (I) The department shall schedule a day during which the curriculum-based, achievement college entrance exam shall be administered to all eleventh grade students enrolled in public schools throughout the state.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), any student who can show a need to take the curriculum-based, achievement college entrance exam on a date on which the exam is administered throughout the country may take the exam on such a date, prior to the date established by the department pursuant to subparagraph (I) of this paragraph (b). The department shall pay all costs associated with a student taking the curriculum-based, achievement college entrance exam pursuant to this subparagraph (II).

(c) The state board shall adopt rules to ensure that any requirements of the administrator of the curriculum-based, achievement college entrance exam, such as a secure environment, are met and to identify the students whose need to take the curriculum-based, achievement college entrance exam on a date on which the exam is administered throughout the country justifies them taking it on such a date.

(1.9) The results of the assessments required by subsection (1) of this section shall be included on each student's final report card for that school year and shall be part of the student's permanent academic record. The results of the curriculum-based, achievement college entrance exam conducted or paid for pursuant to subsection (1.5) of this section shall be included on each student's transcript; except that, if the student retakes the curriculum-based, achievement college entrance exam at a later time at the student's expense, the student may request that the later results be placed on the student's transcript instead of the results of the curriculum-based, achievement college entrance exam administered or paid for pursuant to subsection (1.5) of this section.

(2) The department shall prepare an annual report of the results of the statewide assessments that shall be submitted no later than January 1, 1998, and no later than each January 1 thereafter, to the education committees of the house of representatives and the senate and to the governor and that shall be made available upon request to members of the public. In the report, the department shall present the percentage of students achieving each of the performance levels specified by the board, calculated for the state as a whole, for each district and by district size. The department shall also report the percentage of students in the state achieving each of the performance levels by gender, race, separate disabling condition, and ethnicity. The department shall also report said percentages by school, categorizing the schools by socioeconomic status determined by the number of students eligible for free or reduced-cost lunch.

(3) For each fiscal year, the general assembly shall appropriate moneys in the annual general appropriation act to the department to fund the Colorado student assessment program.



(3.5) (a) The board shall revise as necessary, and the department shall administer reading assessments in Spanish for students enrolled in the third and fourth grades and a writing assessment in Spanish to students enrolled in the fourth grade.

(b) If the state board deems that there are sufficient moneys received from the federal government through the federal “No Child Left Behind Act of 2001”, Public Law 107-110, to pay for the development, revision, and administration of the assessments, the board shall develop, and revise as necessary, and starting in the spring semester 2003, the department shall administer a writing assessment in Spanish for students enrolled in the third grade.

(4) The department shall review and update all assessments administered pursuant to this section, including but not limited to any assessments administered in languages other than English, as necessary to maintain the integrity of the assessments. The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, maintaining the integrity of the assessments administered pursuant to this section is an important element of an accountable program to meet state academic standards and therefore may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** **L. 97:** Entire article amended with relocations, p. 456, § 1, effective August 6; entire section R&RE, p. 596, § 36, effective August 6. **L. 98:** (3) amended, p. 965, § 7, effective May 27; entire section amended, p. 988, § 6, effective July 1. **L. 2000:** (1) and (1.5) amended and (1.2), (1.3), and (1.9) added, p. 362, § 14, effective April 10. **L. 2001:** (1.1) added, p. 67, § 1, effective March 19; (1.2)(a)(I) amended and (1.2)(a)(III) added, p. 356, § 20, effective April 16; (1.2)(d)(I)(A) and (1.2)(d)(II) amended, p. 670, § 2, effective May 30; (1.3)(b) amended, p. 1271, § 24, effective June 5; (1.2)(a)(I), IP(1.2)(d)(I), (1.2)(d)(I)(B), (1.2)(d)(I)(C), (1.2)(d)(III), (1.5), and (1.9) amended and (1.2)(d)(I.5) and (4) added, pp. 1507, 1492, 1509, §§ 37, 13, 39, effective June 8. **L. 2002:** (1.2)(a)(I) and (1.3) amended and (1.2)(a)(I.5), (1.2)(a)(IV), and (1.2)(a)(V) added, p. 582, § 1, effective May 24; (1.2)(a)(I), (1.2)(d)(I)(C), and (1.2)(d)(I.5) amended and (3.5) added, p. 997, § 7, effective June 1; IP(1.2)(d)(I) and (1.2)(d)(I)(B) amended, p. 1794, § 58, effective June 7; (1)(g) added, p. 837, § 1, effective August 7. **L. 2003:** (1.2)(a)(I) amended, p. 729, § 1, effective March 20. **L. 2004:** (1.1)(a), (1.2)(a)(II), and (1.2)(a)(V) amended, p. 1619, § 6, effective July 1. **L. 2005:** (1.2)(d)(II) amended, p. 491, § 1, effective May 10. **L. 2006:** (3) amended, p. 597, § 9, effective August 7. **L. 2009:** (1.2)(d)(I), (1.2)(d)(I.5), and (1.2)(d)(II) amended, (SB 09-163), ch. 293, p. 1530, § 15, effective May 21. **L. 2010:** IP(1) amended, (SB 10-062), ch. 168, p. 594, § 8, effective April 29.

**Editor’s note:** (1) This section is similar to former § 22-53-409 as it existed prior to 1997.

(2) Subsection (4)(a) was originally numbered as § 22-53-409 (4)(a) and the amendments to it in House Bill 97-1253 were harmonized with subsection (4)(a) as relocated in this section by House Bill 97-1219, which was further amended by House Bill 97-1249.

(3) Amendments made to subsection (3) by House Bill 98-1267 and House Bill 98-1234 were harmonized. Amendments to subsection (1.2)(a)(I) by Senate Bill 02-059 and Senate Bill 02-109 were harmonized.

(4) Subsection (1.2)(c)(II) provided for the repeal of subsection (1.2)(c), effective July 1, 2002. (See L. 2000, p. 362.) Subsection (1.1)(b) provided for the repeal of subsection (1.1)(b), effective July 1, 2004. (See L. 2001, p. 67.)

## **22-7-410. Annual public meeting. (Repealed)**

**Source:** **L. 97:** Entire article amended with relocations, p. 457, § 1, effective August 6. **L. 2000:** Entire section repealed, p. 374, § 30, effective April 10.

**Editor’s note:** This section was originally numbered as § 22-53-410, and the amendments to it in House Bill 97-1253 were harmonized with this section as relocated by House Bill 97-1219.



**22-7-411. Student assessments - study - students whose dominant language is not English - report - repeal. (Repealed)**

**Source: L. 2001:** Entire section added, p. 1500, § 27, effective June 8.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2002. (See L. 2001, p. 1500.)

**22-7-412. Student assessments - study - curriculum-based, achievement college entrance exam - report - repeal. (Repealed)**

**Source: L. 2001:** Entire section added, p. 1507, § 38, effective June 8.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2002. (See L. 2001, p. 1507.)

**22-7-413. Student assessments - study - students with individual education programs - report - repeal. (Repealed)**

**Source: L. 2005:** Entire section added, p. 492, § 3, effective May 10.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2006. (See L. 2005, p. 492.)

**22-7-414. State graduation guidelines development council - creation - membership - duties - repeal. (Repealed)**

**Source: L. 2007:** Entire section added, p. 676, § 3, effective May 2. **L. 2009:** Entire section repealed, (SB 09-292), ch. 369, p. 1951, § 42, effective August 5.

## PART 5

### COLORADO BASIC LITERACY ACT

**22-7-501. Short title.** This part 5 shall be known and may be cited as the "Colorado Basic Literacy Act".

**Source: L. 97:** Entire article amended with relocations, p. 458, § 1, effective August 6.

**Editor's note:** This section is similar to former § 22-53-601 as it existed prior to 1997.

**22-7-502. Legislative declaration.** The general assembly hereby finds and declares that all pupils can succeed in school if they have the basic skills in reading and writing that are appropriate for their grade levels. The general assembly further finds and declares that, for success in school, reading is the most important skill, closely followed by writing and mathematics. Accordingly, it is the obligation of the general assembly, the department of education, school districts, schools, educators, and parents or legal guardians to provide pupils with the literacy skills essential for success in school and life. It is the intent of the general assembly that, after completion of the third grade, no pupil may be placed at a grade level or other level of schooling that requires literacy skills not yet acquired by the pupil.

**Source: L. 97:** Entire article amended with relocations, p. 458, § 1, effective August 6.

**Editor's note:** This section is similar to former § 22-53-602 as it existed prior to 1997.

**22-7-503. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Individual literacy plan" means an individual literacy plan formulated for a pupil pursuant to section 22-7-504 (3).

(1.5) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research—U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(2) "School district" means a school district organized pursuant to law.

(3) "State board" means the state board of education.

**Source: L. 97:** Entire article amended with relocations, p. 458, § 1, effective August 6.  
**L. 2000:** (1.5) added, p. 623, § 15, effective May 18.

**Editor's note:** This section is similar to former § 22-53-603 as it existed prior to 1997.

**22-7-504. Pupil assessments - individual literacy plans.** (1) The state board shall determine the satisfactory reading readiness level for kindergarten pupils and literacy and reading comprehension levels for pupils in first, second, and third grades. No later than December 1, 1997, the state board shall, after consultation with the state standards and assessments development and implementation council created in section 22-7-404, approve and identify to each school district instruments for assessing the reading readiness of each pupil in kindergarten and the literacy and reading comprehension level of each pupil in first, second, or third grade. The state board shall promulgate rules to permit exceptions to the retention of pupils in third grade pursuant to paragraph (a) of subsection (5) of this section in cases that have special circumstances.

(2) Using the assessment instruments approved and identified by the state board pursuant to subsection (1) of this section, and beginning no later than the 1998-99 school year, each school district shall annually assess the reading readiness or literacy and reading comprehension level of each pupil enrolled in kindergarten or first, second, or third grade. The assessment may be done in conjunction with assessments of the pupil's performance on the reading content standard pursuant to part 4 of this article.

(3) If a pupil's reading readiness or literacy and reading comprehension, as measured by the assessment, is below the level established by the state board for pupils at that grade, the pupil's parents or legal guardian and teacher and the school administration shall formulate an individual literacy plan for the pupil or, if the pupil is eligible, enroll the pupil in an intensive literacy program funded through the read-to-achieve program pursuant to part 9 of this article. For compliance with this section, a literacy plan may be incorporated into the individualized education programs for special education students. The plan shall include, but need not be limited to, the following:

(a) Sufficient in-school instructional time for the development of the pupil's reading readiness or literacy and reading comprehension skills;

(b) An agreement by the pupil's parents or legal guardian to implement a home reading program to support and coordinate with the school; and

(c) If necessary, placement of the pupil in a summer reading tutorial program.

(4) The school district shall reassess each pupil's progress in the individual literacy plan or the intensive literacy program each semester. The pupil's individual literacy plan or the pupil's enrollment in the intensive literacy program, whichever is applicable, shall continue until the pupil is reading at or above grade level.

(5) (a) In no case shall a school district permit a pupil to pass from the third grade to the fourth grade for reading classes unless the pupil is assessed as reading at or above the reading comprehension level established by the state board. Any pupil who participates in an intensive literacy program between third and fourth grade shall be assessed in reading at the completion of that program and may be allowed to pass for reading classes from the



third grade to the fourth grade only if he or she is reading at or above the reading comprehension level for third grade established by the state board.

(b) Paragraph (a) of this subsection (5) does not apply to children with disabilities, as defined in section 22-20-103 (5), when the disability is a substantial cause for a pupil's inability to read and comprehend at grade level.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (5), a school district may allow a pupil to pass from the third grade to the fourth grade under rules promulgated by the state board pursuant to subsection (1) of this section.

(6) The resource bank, created pursuant to section 22-7-406 (5), shall include in its model programs of instruction reading readiness, literacy, and reading comprehension programs collected from school districts and organizations in the state and throughout the nation that have been proven to be successful. A school district may request technical assistance from the state board and the department of education in selecting and adapting a literacy program in the resource bank for use in the school district.

**Source:** **L. 97:** Entire article amended with relocations, p. 458, § 1, effective August 6. **L. 2000:** IP(3), (4), and (5)(a) amended, p. 623, § 16, effective May 18; IP(3), (4), and (5)(a) amended, p. 1953, § 2, effective June 2. **L. 2007:** IP(3) amended, p. 1036, § 4, effective May 22; (5)(b) amended, p. 1568, § 13, effective May 31. **L. 2010:** IP(3) amended, (HB 10-1422), ch. 419, p. 2076, § 38, effective August 11.

**Editor's note:** This section is similar to former § 22-53-604 as it existed prior to 1997.

**22-7-505. School district responsibilities and incentives.** Each school district shall annually report to the department of education the state-assigned student identifier for each pupil enrolled in the school district who has an individual literacy plan and for each pupil enrolled in the school district for whom literacy goals are included in the pupil's individualized education program.

**Source:** **L. 97:** Entire article amended with relocations, p. 459, § 1, effective August 6. **L. 2000:** (1)(b) amended, p. 624, § 17, effective May 18; (1)(b) amended, p. 1954, § 3, effective June 2. **L. 2007:** (1)(b) amended, p. 1036, § 5, effective May 22. **L. 2010:** Entire section amended, (HB 10-1171), ch. 401, p. 1934, § 2, effective August 11.

**Editor's note:** This section is similar to former § 22-53-605 as it existed prior to 1997.

**22-7-506. Read-to-achieve grant program - board created - fund - repeal. (Repealed)**

**Source:** **L. 2000:** Entire section added, p. 619, § 14, effective May 18; entire section added, p. 1949, § 1, effective June 2; (4) R&RE, p. 1954, § 5, effective June 2. **L. 2002:** (4)(d) added, p. 152, § 6, effective March 27. **L. 2003:** (4)(b)(I) amended, p. 465, § 11, effective March 5; (4)(e) added, p. 456, § 9, effective March 5; (4)(b)(I) amended, p. 2551, § 11, effective June 5; (4)(b)(I) amended and (4)(f) and (4)(g) added, p. 2564, § 8, effective June 5. **L. 2004:** (4)(b)(I) amended and (4)(b)(II) repealed, pp. 1709, 1713, §§ 5, 16, effective June 4; (1) amended, p. 1619, § 7, effective July 1; (5)(a) amended, p. 349, § 15, effective July 1. **L. 2006:** (4)(a), (4)(b), and (4)(c) amended, p. 1035, § 3, effective May 25; (4)(a)(I) amended, p. 1251, § 2, effective May 26. **L. 2007:** (2)(b)(I) amended, p. 179, § 10, effective March 22; entire section repealed, p. 1038, § 10, effective May 22.

**Editor's note:** Subsection (2)(b)(I) was amended by Senate Bill 07-076. Those amendments were superseded by the repeal of the section by Senate Bill 07-192.

**Cross references:** For current provisions relating to the read-to-achieve program, see part 9 of this article.



**22-7-507. Learning improvement grants - programs - fund.** (1) (a) There is hereby created in the department of education the learning improvement grant program, referred to in this section as the “program”. The read-to-achieve board, created in section 22-7-904 and referred to in this section as the “board”, shall establish criteria for awarding grants under the program. On and after July 1, 2001, the board is hereby authorized to award learning improvement grants to schools or a collaborative group of schools for programs to enhance the reading readiness or literacy and reading comprehension skills of early elementary school students.

(b) (I) The criteria for awarding grants pursuant to paragraph (a) of this subsection (1) shall allow for grants for programs to be conducted for students who have just completed the first grade. Programs authorized to receive grants pursuant to this paragraph (b) shall include procedures to identify students in need of assistance and to evaluate the effectiveness of such programs.

(II) Repealed.

(2) The department of education shall seek, and is hereby authorized to receive, funding for the financing of literacy programs enacted after January 1, 2000, including but not limited to funding from public or private gifts, grants, or donations, including but not limited to any funds available pursuant to article 20 of this title. Any funds received pursuant to this section shall be credited to the learning improvement fund created in subsection (3) of this section.

(3) There is hereby created in the state treasury the learning improvement fund, referred to in this section as the “fund”. The fund shall consist of such general fund moneys as may be appropriated thereto by the general assembly and any moneys credited thereto pursuant to subsection (2) of this section. All moneys appropriated or credited to the fund and all income earned thereon shall be subject to annual appropriation by the general assembly for funding literacy programs enacted after January 1, 2000. Any moneys remaining in the fund at the close of any fiscal year shall remain in the fund and shall not revert to the general fund.

**Source: L. 2000:** Entire section added, p.1984, § 1, effective June 2. **L. 2006:** (1)(b)(II) repealed, p. 597, § 10, effective August 7. **L. 2007:** (1)(a) amended, p. 1037, § 6, effective May 22.

**22-7-508. Repeal of part.** This part 5 is repealed, effective July 1, 2013.

**Source: L. 2012:** Entire section added, (HB 12-1238), ch. 180, p. 646, § 1, effective July 1.

## PART 6

### SCHOOL ACCOUNTABILITY REPORTS

**22-7-601. Legislative declaration. (Repealed)**

**Source: L. 2000:** Entire part added, p. 323, § 1, effective April 10. **L. 2001:** (1)(e), (1)(f), and (2) amended, p. 1476, § 1, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) “Alternative education campus” means a public school, including a charter school, that receives a designation pursuant to section 22-7-604.5.

(1.5) Repealed.

(2) to (4) Repealed.

(5) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(6) “District school board” means the board of education of a school district existing pursuant to law.

(7) “Public school” means a school that receives a majority of its funding from moneys raised by a general state, county, or district tax and whose property is operated by a political subdivision of the state or a charter school established pursuant to article 30.5 of this title.

(8) Repealed.

(9) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(10) Repealed.

**Source:** **L. 2000:** Entire part added, p. 324, § 1, effective April 10. **L. 2001:** (1), (7), and (8) amended, p. 1477, § 2, effective June 8. **L. 2002:** (1) amended and (1.5) added, p. 465, § 1, effective May 24. **L. 2004:** (8) amended, p. 1661, § 10, effective June 3. **L. 2009:** (1.5), (2), (3), (4), (8), and (10) repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

#### **22-7-603. State data reporting system. (Repealed)**

**Source:** **L. 2000:** Entire part added, p. 325, § 1, effective April 10. **L. 2001:** (1) amended, p. 359, § 26, effective April 16; (3)(d) amended, p. 679, § 2, effective May 30; (1) amended, p. 1477, § 3, effective June 8. **L. 2004:** (1) amended, p. 1661, § 11, effective June 3. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

#### **22-7-603.5. Legislative declaration - measurement of value added to academic progress. (Repealed)**

**Source:** **L. 2001:** Entire section added, p. 359, § 27, effective April 16. **L. 2006:** (4) amended, p. 715, § 2, effective July 1. **L. 2007:** (4) amended, p. 2031, § 43, effective June 1. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

#### **22-7-603.7. Academic growth pilot program - legislative declaration - creation. (Repealed)**

**Source:** **L. 2002:** Entire section added, p. 1769, § 39, effective June 7. **L. 2004:** Entire section repealed, p. 1656, § 2, effective June 3.

#### **22-7-604. Academic performance - academic growth of students - rating - designation and methodology - rules. (Repealed)**

**Source:** **L. 2000:** Entire part added, p. 327, § 1, effective April 10. **L. 2001:** IP(1) amended and (1.5) added, p. 670, § 1, effective May 30; (1), (1.5), (2), (5), (6), (7), and (8) amended, pp. 1478, 1506, §§ 4, 34, effective June 8. **L. 2002:** (1.5)(a) amended, p. 467, § 3, effective May 24; (2) and (6)(a) amended, p. 1777, § 40, effective June 7. **L. 2003:** (5)(c) amended, p. 1991, § 34, effective May 22. **L. 2004:** (6) amended, p. 1656, § 3, effective June 3. **L. 2006:** (1.5)(a)(III) added and (1.5)(b) and (6)(d) amended, pp. 430, 431, §§ 3, 7, effective April 13. **L. 2008:** (3)(e) added, p. 772, § 8, effective May 14; (5)(c) amended, p. 1267, § 2, effective August 5. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

#### **22-7-604.3. Academic growth calculation - model - rule-making. (Repealed)**

**Source:** **L. 2004:** Entire section added, p. 1651, § 1, effective June 3. **L. 2005:** (4)(a)(I) amended, p. 967, § 1, effective June 2. **L. 2006:** (5)(h) and (7) added, p. 430, §§ 4, 5, effective April 13; (5)(c) repealed, p. 597, § 11, effective August 7. **L. 2007:** Entire section

amended, p. 7, § 2, effective February 6. **L. 2008:** (2)(a) and (3)(a) amended, p. 6, § 1, effective February 14; (3.5) added, p. 772, § 7, effective May 14. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-604.5. Alternative education campuses - criteria - application - rule-making.**

(1) A public school may apply to the state board for designation as an alternative education campus. The state board shall adopt rules specifying the criteria and application process for a public school to be designated an alternative education campus. The rules shall include but need not be limited to:

(a) Criteria that a public school must meet to be designated an alternative education campus, including but not limited to the following:

(I) Having a specialized mission and serving a special needs or at-risk population;

(II) Being an autonomous public school;

(III) Having an administrator who is not under the supervision of an administrator at another public school;

(IV) Having a budget separate from any other public school;

(V) Having nontraditional methods of instruction delivery; and

(VI) (A) Serving students who have severe limitations that preclude appropriate administration of the assessments administered pursuant to section 22-7-409;

(B) Serving a student population in which more than ninety-five percent of the students have an individualized education program pursuant to section 22-20-108 or meet the definition of a high-risk student contained in subsection (1.5) of this section, or any combination of these two criteria that equals at least ninety-five percent of the student population; or

(C) Serving students who attend on a part-time basis and who come from other public schools where the part-time students are counted in the enrollment of the other public school; except that the results of the assessments administered pursuant to section 22-7-409 of all part-time students and high-risk students as defined in subsection (1.5) of this section shall be used in determining the levels of attainment on the performance indicators for the public school for which the student is counted for enrollment purposes;

(D) (Deleted by amendment, L. 2010, (SB 10-154), ch. 157, p. 541, § 1, effective April 21, 2010.)

(b) A procedure for a district school board to request that the state board designate a public school of the school district as an alternative education campus; and

(c) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21, 2009.)

(d) A procedure for a district school board to appeal to the state board a denial of a request for designation.

(1.5) As used in this section, unless the context otherwise requires, a "high-risk student" means a student enrolled in a public school who:

(a) Has been committed to the department of human services following adjudication as a juvenile delinquent or is in detention awaiting disposition of charges that may result in commitment to the department of human services;

(b) Has dropped out of school or has not been continuously enrolled and regularly attending school for at least one semester prior to enrolling in his or her current public school;

(c) Has been expelled from school or engaged in behavior that would justify expulsion;

(d) Has a documented history of personal drug or alcohol use or has a parent or guardian with a documented dependence on drugs or alcohol;

(e) Has a documented history of personal street gang involvement or has an immediate family member with a documented history of street gang involvement;

(f) Has a documented history of child abuse or neglect;

(g) Has a parent or guardian in prison or on parole or probation;

(h) Has a documented history of domestic violence in the immediate family;

(i) Has a documented history of repeated school suspensions;

(j) Is a parent or pregnant woman under the age of twenty years;

(k) Is a migrant child, as defined in section 22-23-103 (2);



(l) Is a homeless child, as defined in section 22-1-102.5 (2) (a);  
(m) Has a documented history of a serious psychiatric or behavioral disorder, including but not limited to an eating disorder, suicidal behaviors, or deliberate, self-inflicted injury; or

(n) Is over traditional school age for his or her grade level and lacks adequate credit hours for his or her grade level.

(2) (a) A district school board for a public school that desires to be considered an alternative education campus pursuant to this section shall file with the state board a request for designation as an alternative education campus. The request shall be in a form approved by the state board and shall contain sufficient information to establish that the public school meets the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section. The state board shall approve the designation of alternative education campus for any public school for which a request is filed pursuant to this subsection (2) that is found by the state board to meet the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section.

(b) Repealed.

(2.5) (a) The department shall annually review the performance of each alternative education campus based on the criteria specified by rule of the state board pursuant to section 22-11-210 (1) (b) and shall recommend to the commissioner and the state board whether the alternative education campus shall adopt a performance, improvement, priority improvement, or turnaround plan, as said plans are described in sections 22-11-403 to 22-11-406. Based on the recommendations, the state board, pursuant to section 22-11-210 (2), shall notify each alternative education campus and its district school board, or the institute if the alternative education campus is an institute charter school, of the type of plan the alternative education campus shall adopt. In adopting its plan, each alternative education campus shall comply with the provisions of sections 22-11-403 to 22-11-406, as applicable.

(b) The district school board for an alternative education campus or the institute, if the alternative education campus is an institute charter school, shall specify the accreditation category for the alternative education campus in accordance with the accreditation process adopted by the district school board or the institute pursuant to section 22-11-307.

(c) Notwithstanding the provisions of section 22-11-503, the school performance report for an alternative education campus shall include the information specified by rule of the state board that will effectively communicate to the parents of students enrolled in the alternative education campus and to the public the performance of the alternative education campus and the performance of students enrolled in the alternative education campus.

(d) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21, 2009.)

(3) (a) Except as excluded pursuant to section 22-7-409, the results of the assessments administered pursuant to section 22-7-409 for all part-time students attending a school or a program that is designated an alternative education campus pursuant to this section shall be included in determining the levels of attainment on the performance indicators achieved by the school to which the student is assigned for enrollment purposes.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), for a part-time student with an individualized education program pursuant to section 22-20-108, the school district in which the student is enrolled, or, in the case of a board of cooperative services, the administrative unit, may designate either the school of residency or the school of attendance as the school to which the student's scores shall be assigned to determine levels of attainment on the performance indicators.

**Source: L. 2002:** Entire section added, p. 465, § 2, effective May 24. **L. 2004:** IP(1), (1)(a)(VI)(B), and (1)(a)(VI)(C) amended and (1)(a)(VI)(D), (1.5), and (2.5) added, p. 488, §§ 2, 3, effective April 20. **L. 2005:** (3) amended, p. 491, § 2, effective May 10. **L. 2006:** (2.5)(c)(I) amended, p. 432, § 8, effective April 13. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21. **L. 2010:** (1)(a)(VI) and (1.5)(i) amended and (1.5)(k), (1.5)(l), and (1.5)(m) added, (SB 10-154), ch. 157, pp. 541, 542, §§ 1, 2, effective April 21. **L. 2011:** (1)(a)(VI)(B), IP(1.5), (1.5)(l), (1.5)(m), and (2)(a) amended and (1.5)(n) added, (HB 11-1277), ch. 306, p. 1473, § 2, effective August 10.

**Editor's note:** Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2003. (See L. 2002, p. 465.)

**Cross references:** For the legislative declaration contained in the 2004 act amending the introductory portion to subsection (1) and subsections (1)(a)(VI)(B) and (1)(a)(VI)(C) and enacting subsections (1)(a)(VI)(D), (1.5), and (2.5), see section 1 of chapter 162, Session Laws of Colorado 2004.

## **22-7-605. School accountability reports - format - rules. (Repealed)**

**Source: L. 2000:** Entire part added, p. 333, § 1, effective April 10. **L. 2001:** IP(5)(c)(I) and (5)(c)(III) amended and (5)(c)(I.5) and (5)(c)(IV) added, p. 196, § 1, effective March 28; IP(6)(c)(I) amended and (6)(c)(I.5) added, p. 194, § 1, effective March 28; (7)(d)(V) amended, p. 671, § 3, effective May 30; (1), (2)(a), (2)(b), (2)(c), (3)(a), IP(3)(b), (3)(c), (4), IP(5), IP(5)(c)(I), IP(5)(c)(I.5), (5)(c)(III), (5)(c)(IV), (5)(e), IP(6), (6)(a)(III), IP(6)(c)(I), IP(6)(c)(I.5), (6)(d)(IV), (7)(a), (7)(b)(I), (7)(c), (7)(d)(II), (7)(d)(III), (7)(d)(V), (7)(d)(VI), (8), (9)(a), (9)(d), and (10) amended and (11) added, pp. 1481, 1505, 1504, 1495, §§ 5, 33, 32, 31, 18, effective June 8; (5)(b)(I) and (5)(d) amended, p. 1509, § 40, effective July 1, 2002. **L. 2002:** (3)(a) and (10) amended and (8)(f) added, pp. 996, 997, §§ 5, 6, effective June 1; (9.5) added, p. 1794, § 59, effective June 7. **L. 2004:** (4)(c.5) added and (4)(d) amended, p. 58, § 1, effective March 8; (3)(b)(II)(B) amended and (8) R&RE, pp. 451, 450, §§ 2, 1, effective April 13; (4)(b)(II)(A), (4)(b)(II)(C), (5)(e)(II), and (8)(a) amended, pp. 1658, 1659, §§ 4, 5, effective June 3; (2)(b) amended, p. 1619, § 8, effective July 1. **L. 2006:** (5)(b)(I) amended, p. 406, § 3, effective April 6. **L. 2007:** Entire section R&RE, p. 1045, § 1, effective May 23. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

## **22-7-606. School accountability reports - delivery web site. (Repealed)**

**Source: L. 2000:** Entire part added, p. 345, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1487, § 6, effective June 8. **L. 2002:** (1)(a) and (3) amended, p. 1795, § 61, effective June 7. **L. 2003:** (1)(a) amended, p. 2141, § 46, effective May 22; (1)(a) and (3)(b) amended, p. 970, § 1, effective August 6. **L. 2005:** (4) repealed, p. 968, § 3, effective June 2. **L. 2007:** Entire section R&RE, p. 1054, § 2, effective May 23. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

## **22-7-607. School accountability reports - nonpublic schools. (Repealed)**

**Source: L. 2000:** Entire part added, p. 346, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1489, § 7, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

## **22-7-607.5. Teacher pay incentive program - repeal. (Repealed)**

**Source: L. 2001:** Entire section added, p. 1495, § 19, effective June 8. **L. 2002:** (2)(b) amended, p. 670, § 5, effective May 28; (1)(a), (1)(c), (2)(a), (2)(b), (2)(c), (2)(d), (3)(a), and (3)(b) amended, pp. 1785, 1783, §§ 52, 47, effective June 7. **L. 2003:** Entire section repealed, p. 522, § 15, effective March 5.

## **22-7-608. Low-graded schools. (Repealed)**

**Source: L. 2000:** Entire part added, p. 346, § 1, effective April 10. **L. 2001:** Entire section repealed, p. 1489, § 8, effective June 8.



**22-7-609. School improvement plans. (Repealed)**

**Source:** **L. 2000:** Entire part added, p. 347, § 1, effective April 10. **L. 2001:** (2), (3)(a), (3)(b), and (5) amended, p. 355, § 19, effective April 16; (2), (3)(c), and (5) amended and (6) added, pp. 1507, 1489, §§ 36, 9, effective June 8. **L. 2003:** (2) amended, p. 729, § 2, effective March 20. **L. 2004:** (2) amended and (3)(a.5) and (3)(c.5) added, p. 1620, §§ 9, 10, effective July 1. **L. 2006:** (5) amended, p. 399, § 1, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.3. Voluntary restructuring - state board approval. (Repealed)**

**Source:** **L. 2006:** Entire section added, p. 400, § 2, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.4. Public school restructuring - tracking students. (Repealed)**

**Source:** **L. 2006:** Entire section added, p. 402, § 2, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.5. School improvement grant program - repeal. (Repealed)**

**Source:** **L. 2001:** Entire section added, p. 353, § 18, effective April 16; (1)(b), (5)(b), and (6) amended, p. 1506, § 35, effective June 8. **L. 2003:** (3)(c)(II) repealed, p. 522, § 15, effective March 5.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2003. (See L. 2001, p. 353.)

**22-7-609.6. School improvement - appropriations. (Repealed)**

**Source:** **L. 2002:** Entire section added, p. 1795, § 62, effective June 7. **L. 2004:** Entire section amended, p. 1662, § 12, effective June 3; entire section amended, p. 1620, § 11, effective July 1. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-610. High-rated or improved school. (Repealed)**

**Source:** **L. 2000:** Entire part added, p. 349, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1490, § 10, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-611. Closing the achievement gap program - strategies - assistance - criteria - rule-making.** (1) As used in this section, unless the context otherwise requires:

(a) "Eligible district" means a school district that has been identified by rule of the state board as having a significant achievement gap.

(b) "Eligible school" means a public school that has been identified by rule of the state board as having a significant achievement gap.

(2) There is hereby established in the department the closing the achievement gap program, referred to in this section as the "program", to provide extensive assistance to eligible districts and eligible schools.

(3) The department shall prepare and distribute to each eligible district and eligible school an outline of different strategies the eligible district or eligible school may implement to improve academic achievement. The department shall provide the outline by April 1 of the school year preceding the school year in which the eligible district or eligible school



intends to participate in the program. The outline may include, but need not be limited to, the following strategies:

(a) Using disaggregated student data to set academic improvement targets in reading, writing, mathematics, and science;

(b) Using improvement targets to define professional development needs related to content, instruction, differentiation, and best practices in educating special education students, gifted and talented students, English language learners, and other student subgroups, as needed;

(c) Developing interim district-level and building-level assessments to monitor student progress toward proficiency on the state model content standards and developing a plan to immediately address gaps in learning;

(d) Examining and realigning, as needed, school scheduling, academic support systems, and assignments of personnel;

(e) Designing a plan for increasing parental knowledge and skill to support academic objectives; and

(f) Identifying leaders who specialize in rehabilitating failing schools and who may serve as school principals.

(4) (a) An eligible school that chooses to apply for participation in the program shall provide to its district school board a list of the strategies selected from the outline provided by the department that the eligible school intends to implement to improve academic achievement among the students enrolled in the eligible school. The eligible school shall provide the list by May 1 of the school year preceding the school year in which the eligible school intends to participate in the program. If the district school board chooses to allow the eligible school to apply for participation in the program, the district school board shall, in accordance with timelines adopted by rule of the state board, provide to the department a list of the strategies that the district school board and the eligible school have chosen to implement to improve academic achievement among the students enrolled in the eligible school.

(b) An eligible district that chooses to apply for participation in the program shall, in accordance with timelines adopted by rule of the state board, provide to the department a list of the strategies selected from the outline provided by the department that the eligible district has chosen to implement to improve academic achievement within the eligible district.

(5) The state board shall determine the criteria by which eligible districts and eligible schools shall be selected to participate in the program and shall promulgate rules that set forth the criteria.

(6) Subject to available appropriations and upon the request of a participating eligible district or eligible school, the department shall provide assistance through the program to the participating eligible district or eligible school. The assistance may consist of, but is not limited to, information, personnel, and program and technical support.

(7) The state board may promulgate all reasonable and necessary rules to implement this section.

**Source: L. 2003:** Entire section added, p. 2510, § 1, effective June 5. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1524, § 3, effective May 21.

**22-7-612. Closing the achievement gap commission - creation - members - report - repeal. (Repealed)**

**Source: L. 2003:** Entire section added, p. 2511, § 1, effective June 5. **L. 2004:** (5) amended, p. 1199, § 55, effective August 4.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, p. 1199.)

**22-7-613. Closing the achievement gap cash fund - creation.** (1) (a) The department is authorized to seek and accept gifts, grants, and donations from private or public

sources for the purposes of implementing section 22-7-611. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the closing the achievement gap cash fund, which fund is hereby created and referred to in this section as the “fund”. The moneys in the fund shall be continuously appropriated to the department.

(b) Repealed.

(2) All interest and income derived from the investment and deposit of moneys in the fund shall remain in the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

**Source:** **L. 2003:** Entire section added, p. 2513, § 1, effective June 5. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1525, § 4, effective May 21; (1) amended, (SB 09-256), ch. 294, p. 1566, § 29, effective May 21. **L. 2012:** (1)(b) repealed, (HB 12-1238), ch. 180, p. 673, § 18, effective July 1.

**Editor’s note:** Amendments to subsection (1) by Senate Bill 09-163 and Senate Bill 09-256 were harmonized.

## PART 7

### TEACHER DEVELOPMENT GRANT PROGRAM

**22-7-701. Short title.** This part 7 shall be known and may be cited as the “Teacher Development Act”.

**Source:** **L. 2000:** Entire part added, p. 1973, § 1, effective June 2.

**22-7-702. Legislative declaration.** (1) The general assembly hereby finds that:

(a) There is a high correlation between student success and excellent teaching;

(b) While educator preparation programs offered by institutions of higher education may provide candidates with the basic knowledge necessary to enter the classroom, ongoing development through school-based, skills-development activities is necessary to enable educators to develop excellent teaching skills;

(c) In-service training programs and similar forms of off-site course work are often unable to provide the kind of skill development needed;

(d) Working collaboratively as colleagues to review assignments, student work, curriculum, and teaching methodology has been proven successful in enabling teachers to determine whether all of these facets of teaching in combination successfully provide the information students need to master reading, writing, mathematics, and science, as indicated by high achievement levels on assessments.

(2) Based on the findings specified in subsection (1) of this section, the general assembly hereby finds that it is necessary to provide grants pursuant to this part 7 to assist schools in providing opportunities for teachers to participate in school-based skills-development activities that are focused on mastering skills in instructing students in reading, writing, mathematics, and science.

**Source:** **L. 2000:** Entire part added, p. 1973, § 1, effective June 2. **L. 2011:** (1)(b) amended, (SB 11-245), ch. 201, p. 848, § 7, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (1)(b), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-703. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) Repealed.

(2) "Department" means the department of education created in section 24-1-115, C.R.S.

(3) "Grant program" means the teacher development grant program created in section 22-7-704.

(4) "School" means any public school in the state, including but not limited to a traditional public school of a school district, a charter school, and an approved facility school, as defined in section 22-2-402 (1).

(5) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(6) "Teacher development schedule" means a schedule of school-based skills-development activities to assist teachers throughout the school year in improving their classroom teaching skills. A "teacher development schedule" may include, but need not be limited to:

(a) Time set aside during which teachers meet to review their assignments, present lesson plans, and provide feedback to one another; and

(b) On-site training, observation, and evaluation by recognized experts in instructional strategies and techniques.

**Source:** **L. 2000:** Entire part added, p. 1974, § 1, effective June 2. **L. 2004:** (1) repealed, p. 5, § 1, effective February 20. **L. 2008:** (4) amended, p. 1384, § 7, effective May 27.

**22-7-704. Teacher development grant program - created - rules.** (1) There is hereby created the teacher development grant program to provide moneys to schools for use in providing a teacher development schedule. A teacher development schedule may include only research-based activities that have been proven effective in improving teachers' skills, especially in teaching reading, writing, mathematics, and science.

(2) (a) On or before October 1, 2000, and on or before each October 1 thereafter, subject to available appropriations, the state board shall award teacher development grants to schools selected from those submitting applications pursuant to section 22-7-705. Each grant shall continue for two school years, unless discontinued pursuant to paragraph (b) of this subsection (2). No two-year grant shall exceed twenty thousand dollars. On expiration of a grant, a school may reapply for a grant by submitting an application pursuant to section 22-7-705.

(b) The state board shall annually review each grant recipient's use of the moneys awarded pursuant to this section. Based on the recommendations of the department made pursuant to section 22-7-706 (4), the state board shall discontinue the grant awarded to any recipient that is not making adequate progress in achieving the goals identified in the recipient's grant application.

(c) Moneys received by a school pursuant to the grant program shall be in addition to the moneys budgeted to the school by the school district in which the school is located and shall not reduce the amount of said budgeted moneys that the school would have received if it had not received a grant pursuant to this part 7. Grants awarded through the program shall be paid from moneys in the teacher development fund created in section 22-7-708.

(3) The state board shall implement the grant program in accordance with the provisions of this part 7. Pursuant to article 4 of title 24, C.R.S., the state board shall promulgate such rules as are required in this part 7 and such additional rules as may be necessary for the implementation of the grant program. Participation by a school in the grant program is voluntary.

(4) The department shall solicit and is hereby authorized to receive such public and private gifts, grants, and donations as may be available to fund the grant program. Any moneys so received shall be credited to the teacher development fund created in section 22-7-708.

**Source:** **L. 2000:** Entire part added, p. 1974, § 1, effective June 2. **L. 2004:** (2)(a) and (2)(b) amended, p. 7, § 3, effective February 20.



**22-7-705. Teacher development grant program - application.** (1) Any school that chooses to participate in the grant program shall submit an application to the department as provided by rule of the state board. Prior to submitting a grant application to the department, an applying school shall submit to the board of education of the school district in which the school is located the items specified in paragraphs (a) to (d) of subsection (2) of this section. Within thirty days after receiving said items, the board of education shall provide to the school a written statement of support or opposition for the proposed schedule that shall include the reasons underlying such support or opposition.

(2) At a minimum, a grant application shall include the following information:

(a) The activities that the school will provide through the teacher development schedule and the research that demonstrates the effectiveness of such activities as implemented in other public or nonpublic schools;

(b) Evidence that the teachers and administrators at the school have participated in selection of the activities to be provided and are in support of the teacher development schedule;

(c) The specific, measurable goals that the school expects to achieve in implementing the teacher development schedule, including both one-year goals and the goals to be achieved upon conclusion of the grant. At a minimum, the school's goals shall include a measurable increase in student learning in the areas of reading, writing, mathematics, and science.

(d) The school's plan for measuring the success of the activities provided through the teacher development schedule in meeting the school's identified goals, including but not limited to how the school will determine improvement in student learning;

(e) The amount of any moneys received by the school pursuant to Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq., how the school is using such moneys, and any improvements in student learning that have occurred in the preceding three years through the use of such moneys;

(f) Whether the school has previously received a grant pursuant to this part 7 and the demonstrated goals achieved in using the grant as specified in the progress and final reports submitted to the department pursuant to section 22-7-707;

(g) A written statement of support for or opposition to the school's proposed teacher development schedule by the board of education of the school district in which the applying school is located, including the reasons underlying such support or opposition.

(3) Repealed.

(4) An institute charter school or approved facility school that submits an application pursuant to this part 7 shall not be required to submit the application to any school district or to include in the application a statement of support for or opposition to the application by a local board of education.

**Source:** L. 2000: Entire part added, p. 1975, § 1, effective June 2. L. 2004: (3) repealed, p. 8, § 4, effective February 20; (4) added, p. 1621, § 12, effective July 1. L. 2008: (4) amended, p. 1384, § 8, effective May 27.

## **22-7-706. Grants - criteria - repeal. (Repealed)**

**Source:** L. 2000: Entire part added, p. 1976, § 1, effective June 2. L. 2004: Entire section amended, p. 5, § 2, effective February 20.

**Editor's note:** Subsection (6)(a) provided for the repeal of this section, effective July 1, 2010. (See L. 2004, p. 5.)

## **22-7-707. Reporting requirements - progress reports - final reports - state report.**

(1) Each school that receives a grant pursuant to this part 7 shall submit to the department:

(a) A progress report specifying the progress made by the school during the initial year of the grant in achieving the goals specified in the school's grant application;

(b) A final report demonstrating the school's success in achieving the goals specified in the school's grant application.

(2) The state board by rule shall specify the date by which each grant recipient shall submit the progress report and the final report and the specific contents of each report. At a minimum, the progress report and the final report shall:

(a) Apply the methods identified in the school's plan for measuring the success of the teacher development schedule, as specified in the school's grant application; and

(b) Specify the student learning results achieved by the school in the areas of reading, writing, mathematics, and science.

(3) On or before January 15, 2002, and on or before January 15 each year thereafter, the department shall submit to the governor and the board of education in each school district in which a grant recipient is located a state report on the teacher development grant program. At such times as the report is submitted to the governor, the department shall provide notice to the education committees of the senate and the house of representatives that the state report is available to the members of the committees upon request. The state report shall include the following information:

(a) A list of grant recipients and the year in which each grant was awarded;

(b) A compilation and summary of the progress and final reports received pursuant to this section;

(c) Such additional information concerning the implementation and effectiveness of the grant program as may be deemed beneficial by the state board, including but not limited to any recommendations for changes in the grant program.

**Source:** L. 2000: Entire part added, p. 1976, § 1, effective June 2. L. 2004: IP(3) amended, p. 8, § 5, effective February 20. L. 2005: IP(3) amended, p. 861, § 2, effective June 1.

**22-7-708. Teacher development fund - creation.** (1) There is hereby created in the state treasury the teacher development fund referred to in this section as the "fund", for payment of teacher development grants awarded pursuant to section 22-7-704. The fund shall consist of such moneys as may be appropriated thereto by the general assembly and such moneys as may be credited thereto pursuant to section 22-7-704 (4). Moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes specified in this part 7. The department may expend up to three percent of the moneys annually appropriated to the fund to offset the documented costs incurred in implementing the grant program. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Except as otherwise provided in subsection (2) of this section, at the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) (a) On March 5, 2003, the state treasurer shall transfer the balance of moneys in the fund to the general fund.

(b) On June 30, 2011, the state treasurer shall transfer the balance of moneys in the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 2000: Entire part added, p. 1979, § 1, effective June 2. L. 2003: Entire section amended, p. 456, § 10, effective March 5. L. 2011: Entire section amended, (SB 11-218), ch. 151, p. 526, § 3, effective May 5.

## PART 8

### SUMMER SCHOOL GRANT PROGRAM

**Editor's note:** (1) This part 8 was repealed in 2003 and was subsequently recreated and reenacted in 2006, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 2003, consult the Colorado statutory research explanatory note and



the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Prior to the recreation and reenactment of this part 8, section 22-7-806 provided for the repeal of this part 8, effective April 4, 2003. (See L. 2003, p. 515.)

**22-7-801. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Establishing a summer school grant program to provide funding to school districts and institute charter schools to provide intensive reading, writing, or mathematics education services to students entering the fifth through eighth grades who received an unsatisfactory proficiency level score on the reading, writing, or mathematics component of the Colorado student assessment program for the previous academic year is an important element of an accountable education program to meet state academic standards; and

(b) Research shows that implementing research-based practices, as defined by the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., as amended, can cause significant improvement in a student's performance in reading, writing, or mathematics in a short period.

(2) The general assembly therefore finds that a program to provide grants to school districts and institute charter schools to assist them in providing summer school programs for students who are entering the fifth through eighth grades and are performing unsatisfactorily in reading, writing, or mathematics may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 2006: Entire part RC&RE, p. 669, § 11, effective April 28. L. 2008: (1)(a) and (2) amended, p. 1207, § 14, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1)(a) and (2), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-7-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(1) "CSAP" means the Colorado student assessment program administered pursuant to section 22-7-409.

(2) "Department" means the department of education created in section 24-1-115, C.R.S.

(3) "Eligible student" means a student who will begin fifth, sixth, seventh, or eighth grade in the next academic year and who has received an unsatisfactory proficiency level score on the reading, writing, or mathematics assessment administered through the CSAP for the preceding academic year.

(4) "Grant program" means the summer school grant program created in section 22-7-803.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** L. 2006: Entire part RC&RE, p. 670, § 11, effective April 28. L. 2008: (3) amended, p. 1207, § 15, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-7-803. Summer school grant program - creation - administration - rules.**

(1) There is hereby created the summer school grant program to provide grants to school districts and institute charter schools to operate summer school programs for eligible students, subject to the requirements of this part 8. The grant program shall be designed to assist school districts and institute charter schools in providing intensive educational services to eligible students in the areas of reading, writing, or mathematics.

(2) The department shall administer the grant program and the state board shall award grants as provided in this part 8.



(3) The department shall evaluate the progress of the summer school programs operated by school districts and institute charter schools that receive grants pursuant to this part 8.

(4) (a) The state board shall promulgate rules in accordance with article 4 of title 24, C.R.S., to implement and administer the grant program. At a minimum, the rules shall specify the following:

(I) The time frames for submitting grant program applications;

(II) The form of the grant program application;

(III) The time frames for distribution of the grant moneys;

(IV) The method by which the department shall evaluate the progress of the summer school programs operated by school districts and institute charter schools that receive grants pursuant to this part 8; and

(V) Any other procedures or policies the state board deems necessary to implement and administer the grant program.

(b) In implementing the grant program and rules promulgated pursuant to this subsection (4), the state board shall ensure that all grants awarded pursuant to this part 8 are issued to school districts or institute charter schools on or before April 30 of each budget year for which moneys are appropriated for the grant program.

**Source: L. 2006:** Entire part RC&RE, p. 670, § 11, effective April 28.

**22-7-804. Summer school programs - requirements.** (1) A school district or institute charter school that receives a grant to provide a summer school program pursuant to this part 8 is subject to the following requirements:

(a) The summer school program shall be research-based, pursuant to the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., as amended, and shall be delivered by teachers who are trained in the use of the program.

(b) The school district or institute charter school conducting the summer school program shall administer, in the subject areas in which the summer school program will focus, a test to every eligible student participating in the program. The school district or institute charter school shall administer the test before the program begins and upon completion of the program to evaluate the progress of each eligible student who participates in the program.

(c) The goal of the summer school program shall be to enable eligible students participating in the program to progress from scoring at the unsatisfactory proficiency level in reading, writing, or mathematics, as applicable, to scoring at the proficient level in reading, writing, or mathematics, as applicable.

**Source: L. 2006:** Entire part RC&RE, p. 671, § 11, effective April 28.

**22-7-805. Summer school grant program - application - criteria.** (1) A school district or institute charter school that seeks to receive a grant pursuant to this part 8 shall submit an application to the department in accordance with rules promulgated by the state board. A school district shall submit an application on behalf of all grade-appropriate schools in the district, including the district charter schools within the district. The application shall include the following information:

(a) The number of eligible students enrolled in the school district or institute charter school, as applicable;

(b) A description of the educational services that the school district or institute charter school anticipates providing through a summer school program;

(c) A description of the method that the school district or institute charter school will use to measure an eligible student's academic progress throughout the program;

(d) A description of the goals that the school district's or institute charter school's summer school program is expected to achieve and the method by which the school district or institute charter school will measure achievement of the goals; and

(e) Any additional information required by rule of the state board promulgated pursuant to section 22-7-803 (4).

(2) The department shall review the applications received from school districts and institute charter schools pursuant to this section and shall make recommendations to the state board concerning the awarding of grants and the amounts of the grants. The state board shall take into consideration the recommendations of the department and shall annually award grants to school districts and institute charter schools in amounts specified by the state board. In awarding grants pursuant to this part 8, the state board shall:

(a) Consider whether the school district's or institute charter school's summer school program complies with the requirements of section 22-7-804;

(b) Consider the geographic location of the school district or institute charter school, as applicable, and, to the extent possible, ensure that grant moneys are awarded to school districts and institute charter schools throughout the state;

(c) Award grants to school districts and institute charter schools that are implementing summer school programs using curricula that are research-based and that have been used with demonstrated success either by the applying school district or institute charter school or by another school district; and

(d) Award grants to school districts and institute charter schools that demonstrate success in improving the academic performance of eligible students in the area of reading, writing, or mathematics, as applicable.

**Source: L. 2006:** Entire part RC&RE, p. 672, § 11, effective April 28.

**22-7-806. Reporting requirements.** (1) On or before October 1 of each year following a budget year for which moneys were appropriated for the grant program, each school district and institute charter school that receives a grant pursuant to this part 8 shall submit a report to the department after completion of its summer school program. The report shall include the following information:

(a) The number of eligible students who participated in the school district's or institute charter school's summer school program, as applicable;

(b) The levels of performance in the subject area in which the summer school program was offered demonstrated by the eligible students participating in the summer school program both at the beginning of the program and at the end of the program, based on tests administered to the eligible students before and after participating in the program; and

(c) Such other information as the state board may by rule, promulgated pursuant to section 22-7-803 (4), require to assess the effectiveness of the summer school programs operated by school districts and institute charter schools.

**Source: L. 2006:** Entire part RC&RE, p. 673, § 11, effective April 28.

**22-7-807. Summer school grant program - funding.** (1) For the 2006-07 budget year and for each budget year thereafter, subject to available appropriations, the general assembly shall annually appropriate moneys from the state education fund created in section 17 (4) of article IX of the state constitution to the department to be used to award grants for summer school programs pursuant to this part 8.

(2) The department may annually withhold a portion of the moneys appropriated for the purposes of this part 8 to offset the direct costs incurred in administering the grant program and in evaluating the progress of each summer school program pursuant to the requirement of section 22-7-803 (3). The amount withheld by the department in any budget year shall not exceed three percent of the amount appropriated for the purposes of this part 8 in that budget year.

**Source: L. 2006:** Entire part RC&RE, p. 673, § 11, effective April 28.

## PART 9

## READ-TO-ACHIEVE GRANT PROGRAM

**22-7-901 to 22-7-909. (Repealed)**

**Editor's note:** (1) This part 9 was added in 2007. For amendments to this part 9 prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-7-909 provided for the repeal of this part 9, effective July 1, 2012. (See L. 2012, p. 672.)

(3) For amendments to sections 22-7-908 and 22-7-909 enacted in the 2012 legislative session, see sections 15 and 16 of chapter 180, Session Laws of Colorado 2012.

## PART 10

PRESCHOOL TO POSTSECONDARY  
EDUCATION ALIGNMENT

**22-7-1001. Short title.** This part 10 shall be known and may be cited as the "Preschool to Postsecondary Education Alignment Act".

**Source: L. 2008:** Entire part added, p. 740, § 1, effective May 14.

**22-7-1002. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Since 1993, implementation of standards-based education has resulted in significant increases in the ability of school districts and the state to measure what each student knows and is able to demonstrate at various levels in the student's academic career and in significant increases in learning and academic achievement among some students enrolled in the public schools of the state;

(b) However, Colorado continues to see a widening of the achievement gap, unacceptably high dropout rates throughout the state, unacceptably low numbers of high school graduates who continue into and successfully complete higher education, and an unacceptably high need for remediation among those students who do continue into higher education;

(c) From the inception of the nation, public education was intended both to prepare students for the workforce and to prepare them to take their place in society as informed, active citizens who are ready to both participate and lead in citizenship. In recent years, the emphasis in public education has been squarely placed on the areas of reading, writing, mathematics, and science, but it is important that education reform also emphasize the public education system's historic mission of education for active participation in democracy.

(d) With the advent of the twenty-first century and increasing expectations and demands with regard to the use of technology and higher-level critical thinking skills, coupled with increasing levels of national and international economic competition, it is now imperative that the state move to the next generation of standards-based education.

(2) The general assembly finds that:

(a) More and more studies indicate that high-quality early learning experiences are crucial to ensuring students' ultimate success in school, in postsecondary education, in the workforce, and in life, generally;

(b) The next generation of standards-based education must take into account the fact that children enter school with varying skills and experiences. Under the Colorado student assessment program, Colorado does not have the ability to describe achievement gaps until students are in third grade, which, in most circumstances, is too late to adequately address the varying skill levels and experiences with which the students entered school. Understanding the skills, knowledge, and behavior that students bring to their earliest years of



public education will provide crucial information to families, communities, schools, and teachers so that they can better support young children's learning and development.

(c) With the increasing number of children who participate in preschool and the recognized importance of providing a high-quality preschool experience, the next generation of standards-based education must ensure that preschools provide very high-quality services that are most likely to help students develop the necessary skills to excel as they enter elementary school.

(3) The general assembly finds that:

(a) The next generation of standards-based education must consider the needs of the whole student by creating a rich and balanced curriculum;

(b) The next generation of standards-based education must also take into account the fact that, while all students must be well prepared for active citizenship, different students will have different career aspirations: Some will seek higher education upon graduation; some will seek career or technical training to pursue a particular vocation; others will immediately seek to enter the workforce;

(c) In the modern world, however, there is little variation in the level of academic preparedness that a student must achieve in order to succeed after high school, regardless of the student's aspirations. To be successful in the workforce and earn a living wage immediately upon graduation from high school, a student needs nearly the same level of academic achievement and preparation that he or she would need to continue into career and technical or higher education.

(d) In providing the curricula to ensure that each student attains the level of academic achievement and preparation he or she needs to continue into the student's chosen post-graduation path of entering the workforce, career and technical education, or higher education, a wide variety of curricular and program options will be necessary to spark in each student the ambition and desire to graduate from high school and achieve his or her aspirations;

(e) Public education must encourage and accommodate students' exposure to and involvement in postsecondary planning and in activities that develop creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; information technology application skills; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship;

(f) The ultimate goal of public education, whatever the student's post-high school aspirations may be or whatever they may become over time, is to ensure that, to the extent possible, each student is prepared to meet his or her full potential. To this end, the system of preschool through postsecondary public education, and the educators who ensure its success, should never cease in striving to help a student achieve mastery of both knowledge and skills.

(4) The general assembly concludes, therefore, that:

(a) To educate students to their full potential, the state must align the public education system from preschool through postsecondary and workforce readiness. This alignment will ensure that a student who enters school ready to succeed and achieves the required level of proficiency on standards as he or she progresses through elementary and secondary education will have achieved postsecondary and workforce readiness when the student graduates from high school, if not earlier. As such, the student will be ready to enter the workforce or to enter postsecondary education without need for remediation.

(b) Alignment of standards from preschool through postsecondary and workforce readiness requires that the state board of education and the Colorado commission on higher education, with the departments of education and higher education, work in close collaboration to create a seamless system of public education standards, expectations, and assessments;

(c) Creating this seamless system of standards, expectations, and assessments from preschool through postsecondary and workforce readiness is a multi-faceted and complex project that will require multiple stages of planning, design, and implementation and that will likely continue over years. Further, achieving the goals outlined in this part 10 will

likely require the reallocation of existing state resources and the identification and allocation of new resources to meet increased needs at the state and local levels, including but not limited to significant investment in professional development for educators.

(d) Aligning standards from preschool through postsecondary and workforce readiness and creating a seamless system of public education will place even greater demands on principals, teachers, and other educators. The general assembly recognizes that enabling them to meet these demands will require an investment in professional development.

(e) Throughout the process of creating a seamless system of public education in Colorado, the state board of education and the Colorado commission on higher education must ensure that the standards for preschool through elementary and secondary education, culminating in postsecondary and workforce readiness, are sufficiently relevant and rigorous to ensure that each student who receives a public education in Colorado is prepared to compete academically and economically within the state or anywhere in the nation or the world.

(5) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, adoption and implementation of a school readiness description, of standards and aligned assessments for preschool through elementary and secondary education, and of a postsecondary and workforce readiness description are critical elements of accountable education reform and accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire part added, p. 740, § 1, effective May 14.

**22-7-1003. Definitions.** As used in this part 10, unless the context otherwise requires:

(1) "Assessment" means the method used to collect evidence of what a student knows and is able to do and to measure a student's academic progress toward attaining a standard.

(2) "Board of cooperative services" or "BOCES" means a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(3) "Commission" means the Colorado commission on higher education created pursuant to section 23-1-102, C.R.S.

(4) "Commissioner" means the commissioner of education appointed by the state board pursuant to section 22-2-110.

(5) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title. A district charter school is a "district charter high school" if it serves any of grades nine through twelve.

(6) "Division of child care" means the division within the department of human services that is responsible for child care regulation.

(7) "Executive director" means the executive director of the department of higher education appointed by the governor pursuant to section 24-1-114, C.R.S.

(8) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title. An institute charter school is an "institute charter high school" if it serves any of grades nine through twelve.

(9) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(10) "Local school board" means a school district board of education.

(11) "P-20 council" means the P-20 education coordinating council appointed by the governor pursuant to executive order B 003 07.

(11.5) "Performing arts" shall have the same meaning as provided in section 22-1-104.5 (1) (b).

(12) "Pilot program" means the pilot program for administration of postsecondary and workforce planning, preparation, and readiness assessments implemented pursuant to section 22-7-1007.

(13) "Postsecondary and workforce planning assessment" means an assessment or battery of assessments administered to students in eighth or ninth grade that, at a minimum, tests in the areas of reading, mathematics, and science, provides guidance regarding a



student's level of academic preparation for entry into postsecondary education or the workforce, and is relevant to the student for purposes of postsecondary planning.

(14) "Postsecondary and workforce preparation assessment" means an assessment or battery of assessments administered to students in tenth grade that, at a minimum, tests in the areas of reading, mathematics, and science, provides guidance regarding a student's level of academic preparation for entry into postsecondary education or the workforce, and is relevant to college admission determinations.

(15) "Postsecondary and workforce readiness" means the knowledge and skills that a student should have attained prior to or upon attaining a high school diploma, as adopted by the state board and the commission pursuant to section 22-7-1008.

(16) "Postsecondary and workforce readiness assessment" means an assessment or battery of assessments administered to students in eleventh grade that, at a minimum, tests in the areas of reading, mathematics, and science and is relevant to college admission determinations by institutions of higher education throughout the United States.

(17) "Postsecondary and workforce readiness program" means a program of study that, prior to or beginning in ninth grade and continuing through twelfth grade, is designed to prepare a student to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(18) "Postsecondary education" means all formal public education that requires as a prerequisite the acquisition of a high school diploma or its equivalent. "Postsecondary education" includes programs resulting in acquisition of a certificate, an associate degree of applied sciences, an associate degree of general studies, an associate degree of arts, or an associate degree of science and all baccalaureate degree programs.

(19) "Regional educator meeting" means a meeting convened pursuant to section 22-7-1011 by the commissioner and the executive director in a regional service area.

(20) "School district" means a school district, other than a junior college district, organized and existing pursuant to law.

(21) "School readiness" means the level of development that indicates a child is able to engage in and benefit from elementary school classroom environments, as adopted by the state board pursuant to section 22-7-1004.

(22) "Standard" means a clear, measurable, learning target for what a student should know or be able to do relative to a particular instructional area.

(23) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(24) "State plan" means the state plan required by the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(25) "Visual arts" shall have the same meaning as provided in section 22-1-104.5 (1)(c).

**Source:** L. 2008: Entire part added, p. 743, § 1, effective May 14. L. 2010: (11.5) and (25) added, (HB 10-1273), ch. 233, p. 1021, § 5, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding subsections (11.5) and (25), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1004. School readiness description - school readiness assessment - adoption - revisions.** (1) On or before December 15, 2008, the state board shall adopt a description of school readiness. The state board, in adopting the school readiness description shall ensure that, at a minimum, school readiness includes physical well-being and motor development, social and emotional development, language and comprehension development, and cognition and general knowledge.

(2) (a) On or before December 15, 2010, the state board shall adopt one or more assessments that are aligned with the description of school readiness and are suitable for measuring students' levels of school readiness. In adopting assessments of students' school readiness, the state board shall consider assessments that are research-based; recognized nationwide as reliable instruments for measuring school readiness; and suitable for determining the instruction and interventions students need to improve their readiness to succeed



in school. School readiness assessments shall not be used to deny a student admission or progression to kindergarten or first grade.

(b) School readiness assessment results shall not be publicly reported for individual students. Following adoption of the school readiness assessment, the state board shall adopt a system for reporting population-level results that provide baseline data for measuring overall change and improvement in students' skills and knowledge over time.

(3) (a) On or before July 1, 2017, and on or before July 1 every six years thereafter, the state board shall review the school readiness description and shall adopt any appropriate revisions to the description. The state board shall review the school readiness assessments and adopt any appropriate revisions to the school readiness assessments when the board reviews the assessments as specified in section 22-7-1006 (5).

(b) The state board shall ensure that any revisions adopted pursuant to this subsection (3) continue to meet the requirements for the description of school readiness and the school readiness assessments specified in this section.

**Source:** L. 2008: Entire part added, p. 746, § 1, effective May 14. L. 2010: (3)(a) amended, (HB 10-1013), ch. 399, p. 1908, § 23, effective June 10.

**22-7-1005. Preschool through elementary and secondary education - aligned standards - adoption - revisions.** (1) On or before December 15, 2009, the state board shall adopt standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education.

(2) (a) The state board shall ensure that the preschool through elementary and secondary education standards, at a minimum, include standards in reading, writing, mathematics, science, history, geography, visual arts, performing arts, physical education, world languages, English language competency, economics, civics, financial literacy, and any other instructional areas for which the state board had adopted standards as of January 1, 2008.

(b) In developing the preschool through elementary and secondary education standards, the state board shall also take into account any career and technical education standards adopted by the state board for community colleges and occupational education, created in section 23-60-104, C.R.S., and, to the extent practicable, shall align the appropriate portions of the preschool through elementary and secondary education standards with the career and technical education standards.

(c) In developing the preschool through elementary and secondary education standards, the state board shall include identification of the levels of attainment that a student shall achieve in order to demonstrate readiness for promotion from elementary grades to middle school grades and from middle school grades to high school grades.

(3) The state board in adopting the preschool through elementary and secondary education standards shall:

(a) Align the standards to ensure that a student who demonstrates attainment of the standards as the student advances from preschool through elementary and secondary education will be able to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma;

(b) Collaborate with the commission to ensure that the standards are aligned with the description of postsecondary and workforce readiness adopted pursuant to section 22-7-1008;

(c) Ensure that the standards will facilitate longitudinal measurement of each student's academic growth from preschool through elementary and secondary education;

(d) Ensure that the standards include development of postsecondary planning skills and the application of those skills;

(e) Ensure that, in addition to measuring a student's subject matter knowledge, the standards, to the extent practicable, will require a student to develop and demonstrate creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; information technology application skills; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship; and

(f) Ensure that the standards are comparable in scope, relevance, and rigor to the highest national and international standards that have been implemented successfully and are consistent with and relevant to achievement of the goals specified in section 22-7-1002.

(4) In adopting the standards for preschool through elementary and secondary education pursuant to this section, the state board shall ensure that it includes standards for grades nine through twelve that are aligned with the postsecondary and workforce planning, preparation, and readiness assessments adopted by the state board and the commission pursuant to section 22-7-1008.

(5) The state board shall modify the preschool through elementary and secondary education standards adopted pursuant to this section as necessary in response to comments received through the peer review process and to reflect the contents of the state plan approved pursuant to section 22-7-1012.

(6) On or before July 1, 2018, and on or before July 1 every six years thereafter, the state board shall review and adopt any appropriate revisions to the preschool through elementary and secondary education standards specified in this section. In adopting revisions, the state board may add or delete one or more of the specific instructional areas based on the needs of the state and changes in national and international academic expectations. In adopting revisions to the standards pursuant to this subsection (6), the state board shall ensure that the standards continue to meet the requirements specified in subsection (3) of this section.

**Source: L. 2008:** Entire part added, p. 746, § 1, effective May 14; (2)(a) amended, p. 2276, § 5, effective June 5. **L. 2010:** (2)(a) amended, (HB 10-1273), ch. 233, p. 1022, § 6, effective May 18; (6) amended, (HB 10-1013), ch. 399, p. 1908, § 24, effective June 10.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1006. Preschool through elementary and secondary education - aligned assessments - adoption - revisions.** (1) (a) On or before December 15, 2010, or as soon thereafter as fiscally practicable, the state board shall adopt a system of assessments that are aligned with the preschool through elementary and secondary education standards and are designed to measure students' levels of attainment of the standards and to longitudinally measure students' academic progress toward attaining the standards and toward attaining postsecondary and workforce readiness. In adopting the system of assessments, the state board shall ensure, at a minimum, that the system is designed to:

(I) Provide relevant, timely results that will aid teachers, parents, and students in identifying areas in which students may need additional support or assistance in attaining the standards;

(II) Facilitate and ensure longitudinal measurement of students' academic growth over time;

(III) Provide guidance to teachers, parents, and students in determining whether each student is making the necessary progress toward achieving postsecondary and workforce readiness;

(IV) Provide results that may be used across multiple education systems as a student progresses from preschool through elementary and secondary education and into postsecondary education;

(V) Maintain a high level of accountability across the state for students, schools, and school districts;

(VI) Comply with the requirements of federal law with regard to statewide standardized testing; and

(VII) Provide assessment scores that are useful in measuring student academic performance, the academic performance of a school, and the academic performance of a school district for purposes of state and federal accountability systems.

(b) In adopting a system of assessments, the state board shall give consideration to the use of authentic assessment methods, such as portfolios, projects, and performances, so long



as the assessment methods are valid and reliable, employ standard scoring criteria, and align with the preschool through elementary and secondary education standards.

(c) In adopting a system of assessments, the state board shall also adopt scoring criteria for measuring a student's level of attainment of a standard based on the student's performance on a particular assessment and for measuring a student's progress toward attaining postsecondary and workforce readiness.

(d) In adopting a system of assessments, the state board shall also make recommendations concerning a system of ratings for public schools that recognizes each school's success in supporting the longitudinal academic growth of the students enrolled in the public schools and in achieving adequate yearly progress as required by federal law.

(e) In adopting a system of assessments, the state board shall recommend legislative changes as necessary to implement the system and the proposed changes to the system of ratings for public schools.

(1.5) Colorado shall participate as a governing board member, at least until January 1, 2014, in a consortium of states that focuses on the readiness of students for college and careers by developing a common set of assessments. On or before January 1, 2014, and on or before each January 1 thereafter, if Colorado is a governing board member of the consortium of states, the state board is strongly encouraged to conduct a fiscal and student achievement benefit analysis of Colorado remaining a governing board member of the consortium. If adopting the system of assessments that is aligned with the state standards for reading, writing, and mathematics, the state board shall rely upon assessments developed by the consortium of states.

(2) In adopting the system of assessments, the state board shall ensure that it includes the postsecondary and workforce planning, preparation, and readiness assessments adopted by the state board and the commission pursuant to section 22-7-1008.

(3) In adopting an assessment that is aligned with the state standards for writing, the state board shall:

(a) Ensure that any writing assessment that is included within the system of assessments can be evaluated and the results returned to the local education providers in a timely manner and that the assessment is designed to provide relevant, useful results; and

(b) Seek input from local education providers concerning the writing assessments used by each local education provider, the usefulness of the assessments, and recommendations from the local education provider concerning writing assessments that would be effectively used at a statewide level.

(4) The state board shall modify the system of assessments adopted pursuant to this section as necessary in response to comments received through the peer review process and to reflect the contents of the state plan approved pursuant to section 22-7-1012.

(5) Every six years after the adoption of the system of assessments pursuant to paragraph (a) of subsection (1) of this section, the state board shall review and adopt any appropriate revisions to such system of assessments. The state board may adopt revisions to an assessment or adopt additional assessments, regardless of whether it adopts any revision to the standards with which the assessment is aligned. In adopting revisions to the system of assessments, the state board shall ensure that the system of assessments continues to meet the requirements specified in this section.

**Source: L. 2008:** Entire part added, p. 748, § 1, effective May 14. **L. 2010:** IP(1)(a) and (5) amended, (HB 10-1013), ch. 399, p. 1908, § 25, effective June 10. **L. 2012:** (1.5) added, (HB 12-1240), ch. 258, p. 1334, § 58, effective June 4.

**22-7-1007. Postsecondary and workforce readiness assessments pilot program - rules.** (1) (a) Beginning in the 2008-09 academic year, the department of education shall implement a pilot program for the purpose of evaluating standards and collecting data regarding student performance on postsecondary and workforce planning, preparation, and readiness assessments from assessment vendors and local education providers that volunteer to participate in the pilot program. The state board shall apply the data in creating standards for grades nine through twelve, and the state board and the commission shall apply the data in creating the description of postsecondary and workforce readiness and in



selecting the postsecondary and workforce planning, preparation, and readiness assessments that will be administered statewide following completion of the pilot program.

(b) To implement the pilot program, the department of education shall invite nationally recognized vendors of postsecondary and workforce planning, preparation, and readiness assessments to participate in the pilot program. In selecting the vendors that will be invited to participate, the department shall include, but need not be limited to, at least one vendor that provides a system of postsecondary and workforce planning, preparation, and readiness assessments that are aligned to demonstrate a student's academic growth through the ninth, tenth, and eleventh grades.

(c) The department of education shall provide information to local education providers concerning the creation and operation of the pilot program, including but not limited to a list of the vendors that will be participating and the duties of a local education provider that chooses to participate in the pilot program.

(d) As part of the pilot program, the department of education shall survey local education providers concerning the postsecondary and workforce planning, preparation, and readiness assessments, if any, administered by the local education providers within the preceding five years. The department of education shall solicit information concerning the local education providers' determination of the effectiveness and relevance of the assessments administered and shall request any data compiled by the local education providers in making their determination.

(e) As soon as possible following May 14, 2008, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of the pilot program, including but not limited to the procedures and time frames by which a local education provider shall notify the department of education of its intent to participate in the pilot program.

(f) For the 2008-09 budget year, the general assembly shall appropriate moneys to the department of education for distribution to local education providers who participate in the pilot program to assist them in defraying the costs incurred in administering the postsecondary and workforce planning, preparation, and readiness assessments. The state board shall promulgate rules describing the process by which the department shall distribute the moneys to participating local education providers, ensuring to the extent practicable that moneys are distributed to local education providers in areas throughout the state and of varying enrollment size and taking into account the fiscal needs of each participating local education provider and whether the participating local education provider was administering postsecondary and workforce planning, preparation, or readiness assessments prior to implementation of the pilot program.

(2) Each assessment vendor that chooses to participate in the pilot program shall provide to the department of education data concerning administration of the vendor's assessments in Colorado and in other states, including but not limited to test score unit records. The department shall apply the data in preparing amendments to the state plan, as described in section 22-7-1012, and in adjusting the Colorado growth model adopted pursuant to section 22-11-202 to ensure that the results of each assessment that is included in the pilot program can be used to measure individual student growth toward attaining postsecondary and workforce readiness.

(3) Each local education provider that chooses to participate in the pilot program shall:

(a) Each academic year beginning in 2009, administer a postsecondary and workforce planning assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in ninth grade. A local education provider may also choose to administer the postsecondary and workforce planning assessment to students enrolled in eighth grade.

(b) Each academic year beginning in 2009, administer a postsecondary and workforce preparation assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in tenth grade;

(c) Each academic year beginning in 2009, administer a postsecondary and workforce readiness assessment, selected by the local education provider from among the assessments provided by the participating vendors, to students enrolled in eleventh grade;

(d) Develop and implement a process by which the local education provider will share the results received by each student on the postsecondary and workforce planning, preparation, and readiness assessments with the student and the student's parents as soon as possible following receipt of the results; and

(e) Annually direct the vendor to provide to the department of education, on or before a date specified by rule of the state board, the results achieved by each student on the postsecondary and workforce planning, preparation, or readiness assessment and any other information pertaining to the operation of the pilot program that may be required by state board rule.

(4) The pilot program shall continue to operate as described in this section until the state board and the commission, pursuant to section 22-7-1008, have adopted the postsecondary and workforce planning, preparation, and readiness assessments to be administered statewide.

**Source: L. 2008:** Entire part added, p. 750, § 1, effective May 14. **L. 2009:** (2) and (3) amended, (HB 09-1046), ch. 35, p. 145, § 1, effective March 20; (2) amended, (SB 09-163), ch. 293, p. 1531, § 16, effective May 21.

**Editor's note:** Amendments to subsection (2) by House Bill 09-1046 and Senate Bill 09-163 were harmonized.

**22-7-1008. Postsecondary and workforce readiness description - postsecondary and workforce planning, preparation, and readiness assessments - adoption - revision.**

(1) (a) On or before December 15, 2009, the state board and the commission shall negotiate a consensus and adopt a description of postsecondary and workforce readiness. In describing postsecondary and workforce readiness, the state board and the commission shall, at a minimum:

(I) Describe the knowledge and skills that are required for a student to demonstrate postsecondary and workforce readiness;

(II) Ensure that postsecondary and workforce readiness includes demonstration of postsecondary planning skills and the ability to apply those skills;

(III) Describe the level of English language competency that a student must demonstrate in order to demonstrate postsecondary and workforce readiness;

(IV) Ensure that postsecondary and workforce readiness includes demonstration of a sufficiently high level of comprehension or skill to successfully complete, without need for remediation, the core academic courses identified by the commission pursuant to section 23-1-125 (3), C.R.S.; and

(V) Ensure that, to the extent practicable, postsecondary and workforce readiness requires a student to demonstrate creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; information technology application skills; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship.

(b) Based on the data received by the department of education from the operation of the pilot program pursuant to section 22-7-1007, the state board and the commission may modify the description of postsecondary and workforce readiness as appropriate to ensure alignment of the standards for grades nine through twelve, the postsecondary and workforce planning, preparation, and readiness assessments, and the description of postsecondary and workforce readiness. The state board and the commission may further modify the description of postsecondary and workforce readiness as necessary based on the recommendations received through the peer review process on the amended state plan pursuant to section 22-7-1012 to ensure alignment of the postsecondary and workforce readiness description with the standards and assessments.

(2) (a) On or before December 15, 2010, or as soon thereafter as fiscally practicable, the state board and the commission shall negotiate a consensus and adopt one or more postsecondary and workforce planning assessments, postsecondary and workforce prepa-



ration assessments, and postsecondary and workforce readiness assessments that local education providers shall administer pursuant to section 22-7-1016. The state board and the commission shall base the selection of the postsecondary and workforce planning, preparation, and readiness assessments on the information received through the operation of the pilot program, ensuring that the selected assessments are aligned with the standards for grades nine through twelve and with the description of postsecondary and workforce readiness.

(b) Following adoption of the postsecondary and workforce planning, preparation, and readiness assessments, the state board and the commission shall negotiate a consensus and adopt scoring criteria for the postsecondary and workforce planning, preparation, and readiness assessments to indicate a student's level of postsecondary and workforce readiness, based on the student's level of performance on the assessments. The state board and the commission shall ensure that the scoring criteria for the postsecondary and workforce planning, preparation, and readiness assessments are aligned with the scoring criteria that apply to the system of assessments for preschool through elementary and secondary education standards.

(c) The state board and the commission shall negotiate a consensus and modify the postsecondary and workforce planning, preparation, and readiness assessments adopted pursuant to this section as necessary in response to comments received through the peer review process and to reflect the contents of the state plan approved pursuant to section 22-7-1012.

(3) (a) On or before July 1, 2015, and on or before July 1 every six years thereafter, the state board and the commission shall review, negotiate a consensus, and adopt any appropriate revisions to the description of postsecondary and workforce readiness. The state board and the commission shall ensure that any revisions adopted pursuant to this paragraph (a) meet the requirements for the description of postsecondary and workforce readiness specified in subsection (1) of this section.

(b) Every six years after the adoption of the postsecondary and workforce planning, preparation, and readiness assessments pursuant to paragraph (a) of subsection (2) of this section, the state board and the commission shall review, negotiate a consensus, and adopt any appropriate revisions to such assessments. The state board and the commission may adopt revisions to the postsecondary and workforce planning, preparation, and readiness assessments, regardless of whether they adopt any revisions to the postsecondary and workforce readiness description. In adopting revisions to the assessments, the state board and the commission shall ensure that the assessments continue to meet the requirements specified in subsection (2) of this section. The state board and the commission shall also review and adopt any appropriate revisions to the scoring criteria.

**Source: L. 2008:** Entire part added, p. 752, § 1, effective May 14. **L. 2010:** (2)(a) and (3)(b), (HB 10-1013), ch. 399, p. 1909, § 26, effective June 10.

**22-7-1009. Diploma endorsements - adoption - revisions.** (1) On or before July 1, 2011, or as soon thereafter as fiscally practicable, the state board shall adopt criteria that a local school board, BOCES, or institute charter high school may apply if the local school board, BOCES, or institute charter high school chooses to endorse high school diplomas to indicate that students have achieved postsecondary and workforce readiness. The criteria shall include, but need not be limited to, the required minimum level of postsecondary and workforce readiness that a student must achieve to receive a readiness endorsement on his or her diploma from the local school board, BOCES, or institute charter high school, based on whether the student intends to pursue a career and technical education certificate; enrollment in an open, modified open, or moderately selective institution of higher education; or enrollment in a selective institution of higher education. In identifying the required minimum level of postsecondary and workforce readiness, the state board shall ensure that the minimum level of postsecondary and workforce readiness reflects the expectations for postsecondary and workforce readiness that are applied nationally and internationally.



(2) The state board shall also adopt criteria for an endorsement that a local school board, BOCES, or institute charter high school may choose to grant to graduating students that would indicate extraordinary academic achievement or exemplary demonstration by a student of postsecondary and workforce readiness.

(3) Following adoption of the criteria for diploma endorsements pursuant to subsections (1) and (2) of this section, the state board shall consult with the commission and the governing boards of the state institutions of higher education. The provisions of section 22-7-1017 (2) shall take effect only if the commission and the governing boards approve the criteria.

(4) The state board shall also consider and may adopt criteria for a range of additional endorsements that a school district, BOCES, or institute charter high school may choose to grant to graduating students to recognize concentrated focus and outstanding achievement in a variety of subject areas, including but not limited to visual arts, performing arts, career and technical education, history and civics, mathematics, and science.

(5) In adopting endorsement criteria pursuant to this section, the state board shall take into consideration any career and technical education standards that are adopted by the state board for community colleges and occupational education, created in section 23-60-104, C.R.S.

(6) Every six years after the adoption of criteria for endorsements pursuant to subsection (1) of this section, the state board shall revise and adopt any appropriate revisions to such criteria for endorsements.

**Source:** **L. 2008:** Entire part added, p. 754, § 1, effective May 14. **L. 2010:** (4) amended, (HB 10-1273), ch. 233, p. 1022, § 7, effective May 18; (1) and (6) amended, (HB 10-1013), ch. 399, p. 1909, § 27, effective June 10. **L. 2012:** (1) amended, (HB 12-1345), ch. 188, p. 729, § 18, effective May 19.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (4), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsection (1), see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-7-1010. State board - commission - public input - staff assistance.** (1) In fulfilling their duties under this part 10, the state board and the commission, at a minimum, shall:

- (a) Meet with interested persons throughout the state, including but not limited to:
  - (I) Early care and education providers;
  - (II) Representatives of early childhood councils and early childhood care and education councils;
  - (III) Elementary and secondary teachers, specialists in special education services, counselors, and administrators;
  - (IV) Boards of cooperative services;
  - (V) Local school boards and governing boards of district charter schools and institute charter schools;
  - (VI) Parents and students;
  - (VII) Precollegiate and postsecondary service providers and concurrent enrollment program managers;
  - (VIII) Career and technical education faculty and administrators;
  - (IX) Postsecondary faculty and administrators;
  - (X) Governing boards of institutions of higher education; and
  - (XI) Employers and other members of the business community and labor, workforce, and economic development experts;
- (b) Take into consideration the recommendations of and consult with the P-20 council;
- (c) Solicit and take into consideration information from local boards of education specifically regarding the input received by the local boards from their respective communities in developing the blueprints for the education systems in their respective communities pursuant to section 22-32-109 (1) (kk);

(d) Take into consideration, as applicable, the recommendations of the state graduation guidelines development council made pursuant to section 22-7-414, as it existed prior to July 1, 2008;

(e) Consult and collaborate with state and national organizations of early care and education providers and experts, state and national organizations of educators, and other state, national, and international academic organizations that specialize in creation, maintenance, and implementation of relevant and rigorous education standards and curriculum and in alignment of standards and assessments from preschool through postsecondary education.

(2) (a) Staff from the department of education, the department of higher education, the state board for community colleges and occupational education, the division of child care, and the early childhood policy team in the office of the lieutenant governor shall provide technical assistance and support for the state board and the commission in fulfilling their duties under this part 10.

(b) To further assist in fulfilling their duties under this part 10, the state board and the commission may appoint one or more task forces consisting of state, national, and international education experts.

(3) The department of education and the department of higher education are authorized to receive and expend gifts, grants, or donations of any kind from a public or private entity to carry out the purposes of this part 10, subject to the terms and conditions under which given; except that the department of education or the department of higher education may not accept a gift, grant, or donation if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law.

**Source: L. 2008:** Entire part added, p. 755, § 1, effective May 14.

**22-7-1011. Regional educator meetings - purpose - recommendations.** (1) Beginning in the 2008-09 academic year, the commissioner and the executive director, at least annually, shall convene meetings of professional educators in preschool, elementary, secondary, and postsecondary education within each of the regional service areas created by the state board. In convening the regional educator meetings, the commissioner and the executive director shall work with:

(a) The president of the state system of community and technical colleges;

(b) One or more representatives of the junior college districts;

(c) The chief academic officers or executive directors of the state institutions of higher education;

(d) The school district superintendents throughout the state; and

(e) Representatives of the division of child care and the early childhood policy team in the office of the lieutenant governor.

(2) At a minimum, the following persons shall be invited to attend the regional educator meetings in each regional service area:

(a) Early care and education providers;

(b) Members of the local school boards of the school districts included in the regional service area;

(c) The preschool, elementary, and secondary teachers, principals, administrators, counselors, and other special services providers employed by the local education providers located in the regional service area; and

(d) The postsecondary faculty, academic advisors, and administrators employed by the state institutions of higher education and junior colleges, if any, located in the regional service area.

(3) The commissioner and the executive director shall convene regional educator meetings for the purpose of collaborating in the planning, design, and implementation of the alignment of the preschool through postsecondary public education systems, including but not limited to:

(a) Collaborating in the planning, design, and implementation of:

(I) The school readiness description, the preschool through elementary and secondary education standards, and the postsecondary and workforce readiness description;



(II) Programs of instruction for preschool, elementary, secondary, and postsecondary students; and

(III) Assessments that are aligned with the school readiness and postsecondary and workforce readiness descriptions and the preschool through elementary and secondary education standards;

(b) Collaborating in identification and provision of the supportive services that are necessary to implement the school readiness and postsecondary and workforce readiness descriptions, the preschool through elementary and secondary education standards, and the aligned assessments;

(c) Identifying and reviewing the levels of financial support needed to implement the school readiness and postsecondary and workforce readiness descriptions, the preschool through elementary and secondary education standards, and the aligned assessments, and formulating recommendations concerning the reallocation of state resources and the identification of additional state resources for said implementation; and

(d) Reviewing the school readiness description, the preschool through elementary and secondary education standards, the postsecondary and workforce readiness description, the assessments aligned with the descriptions and standards, and the criteria for diploma endorsements, and making recommendations for revisions to the state board and the commission.

(4) Each regional service area may submit to the state board and the commission the recommendations arising from the regional educator meetings held in the regional service area. The state board and the commission shall take the recommendations into account in fulfilling their duties pursuant to this part 10. In addition, a regional service area may submit any recommendations for legislative changes to the education committees of the house of representatives and the senate, or any successor committees.

**Source: L. 2008:** Entire part added, p. 756, § 1, effective May 14.

**22-7-1012. State plan - amendments - peer review - final adoption.** (1) The department of education shall solicit information from local education providers that began administering postsecondary and workforce planning, preparation, and readiness assessments prior to implementation of the pilot program and from local education providers and assessment vendors that are participating in the pilot program. The department of education may contract with an independent, nationally recognized third party to conduct a rigorous evaluation of the information received and, based on the evaluation, to make recommendations to the department and the state board concerning amendments to the state plan.

(2) (a) As soon as practicable under federal law, based on the evaluation of information received pursuant to subsection (1) of this section and on information received by the state board pursuant to section 22-7-1010 and on any information received from the regional educator meetings pursuant to section 22-7-1011, the department of education shall submit to the federal department of education amendments to the state plan for peer review and approval. The amendments, at a minimum, shall include:

(I) Amendments to incorporate the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005, including the standards for grades nine through twelve that are aligned with the postsecondary and workforce planning, preparation, and readiness assessments adopted pursuant to section 22-7-1008; and

(II) Amendments to incorporate the system of assessments adopted pursuant to section 22-7-1006.

(b) Notwithstanding any provision of this section to the contrary, in order to preserve flexibility and adaptability at the state level, the amended state plan shall include only those components of the aligned preschool through postsecondary public education systems that are required by or subject to approval under federal law and shall not include any components of the aligned preschool through postsecondary public education systems that are not required by or subject to approval under federal law.

(c) The limitations on the contents of the state plan specified in paragraph (b) of this subsection (2) shall not be construed to prohibit the state board and the commission from



adopting, and the state board and the commission are encouraged to adopt, descriptions, standards, assessments, and other components of the aligned preschool through postsecondary public education systems that exceed the minimum requirements of federal law and that are comparable in scope, relevance, and rigor to the highest national and international standards that have been implemented successfully and are consistent with and relevant to achievement of the goals specified in section 22-7-1002.

(3) The department of education shall provide public notice of the amendments to the state plan, any comments and suggestions received through the peer review process, and any changes made to the amendments in response to the peer review comments.

**Source: L. 2008:** Entire part added, p. 758, § 1, effective May 14.

**22-7-1013. Local education provider - preschool through elementary and secondary education standards - adoption.** (1) (a) On or before December 15, 2011, each local education provider shall review its preschool through elementary and secondary education standards in comparison with the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005. Following review, each local education provider shall revise its standards, as necessary, to ensure that:

(I) The standards meet or exceed the state preschool through elementary and secondary education standards; and

(II) The standards are aligned to ensure that a student who demonstrates attainment of the standards while advancing through preschool and elementary and secondary education will be able to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(b) In revising its preschool through elementary and secondary education standards, each local education provider shall ensure that it adopts standards, at a minimum, in those subject matter areas that are included in the state preschool through elementary and secondary education standards, including but not limited to English language competency and visual arts and performing arts education.

(c) In revising its preschool through elementary and secondary education standards, a local education provider may choose to adopt the state preschool through elementary and secondary education standards.

(2) Following the review and revision of its preschool through elementary and secondary education standards, each local education provider shall adopt curricula that are aligned with the standards. The local education provider shall design the curricula to ensure that, beginning in preschool or kindergarten and continuing through elementary and secondary education, each student receives a program of study that will enable the student to demonstrate attainment of each of the preschool through elementary and secondary education standards.

(3) Each local education provider shall adopt assessments that are aligned with the local education provider's standards and curricula and that will adequately measure each student's progress toward and attainment of the local education provider's standards for the subject areas that are not assessed by the state through the system of assessments adopted by the state board pursuant to section 22-7-1006.

(4) A local education provider may allow a student who is receiving special education services to demonstrate attainment of the preschool through elementary and secondary education standards and postsecondary and workforce readiness through a differentiated plan if required in the student's individualized education program.

(5) On or before July 1, 2017, and on or before July 1 every six years thereafter, each local education provider shall review its preschool through elementary and secondary education standards and, taking into account any revisions to the state preschool through elementary and secondary education standards, shall revise and readopt its standards if necessary to ensure that they continue to meet or exceed the state preschool through elementary and secondary education standards. The local education provider shall revise its curricula accordingly to ensure that the curricula continue to align with the local education provider's preschool through elementary and secondary education standards.

**Source: L. 2008:** Entire part added, p. 759, § 1, effective May 14. **L. 2010:** (1)(b) amended, (HB 10-1273), ch. 233, p. 1022, § 8, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (1)(b), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1014. Preschool individualized readiness plans - school readiness - assessments.** (1) (a) Beginning in the fall semester of 2013, each local education provider that provides a preschool or kindergarten program shall ensure that each student enrolled in a preschool or kindergarten program operated by the local education provider receives an individualized readiness plan that addresses the preschool standards or kindergarten standards, as appropriate, knowledge and skill areas in which a student needs assistance to make progress toward school readiness.

(b) In creating and implementing the individualized readiness plans, a local education provider shall use assessment instruments that are research-based, valid, and reliable to facilitate the systematic measurement of a student's increasing knowledge, skills, and accomplishments within the classroom context. The purpose of the continuing assessments shall be to help direct teachers' practice within the classroom with each student and thereby maximize each students' progress toward demonstrating school readiness.

(2) (a) Beginning with students who enter kindergarten in the fall semester of 2013, each local education provider shall ensure that each student enrolled in a kindergarten program operated by the local education provider progresses toward demonstrating school readiness. Each local education provider shall administer the school readiness assessment to each student enrolled in a kindergarten program operated by the local education provider to measure each student's progress toward demonstrating school readiness.

(b) The results of the school readiness assessments shall not be used to deny a student admission or progression to first grade.

(3) The department of education, the division of child care, and the staff of the early childhood policy team in the lieutenant governor's office shall, upon request and subject to available appropriations, provide support to local education providers in implementing the preschool standards, individualized readiness plans, and school readiness assessments and in assisting students in progressing toward school readiness. Support may include, but need not be limited to:

(a) Assisting the local education provider in reviewing and revising curriculum;

(b) Communicating with early care and education providers, educators, local school board members, board of cooperative services members, charter school governing board members, school district and school administrators, and parents;

(c) Providing professional development for educators; and

(d) Collecting and making available a resource bank of examples of best practices in national, state, school district, school, and classroom reform efforts in early childhood and school readiness consistent with the intent of this part 10.

**Source: L. 2008:** Entire part added, p. 760, § 1, effective May 14. **L. 2010:** (1)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 28, effective June 10.

**22-7-1015. Postsecondary and workforce readiness program - technical assistance.**

(1) On or before December 15, 2011, each local education provider shall review the curricula provided by the public high schools operated by the local education provider in the subject matter areas included in postsecondary and workforce readiness. The local education provider shall revise its curricula, or adopt new curricula, as necessary to ensure that the curricula content for said subject matter areas are aligned with postsecondary and workforce readiness such that a student who successfully completes the curricula will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(2) (a) The revised or newly adopted curricula described in subsection (1) of this section shall constitute the postsecondary and workforce readiness program for each public



high school operated by the local education provider. In revising or adopting the postsecondary and workforce readiness program, a local education provider is not required to base its courses or means of awarding course credits on Carnegie units. A local education provider may choose to base the awarding of course credits on a student's demonstration of attainment of the standards addressed by the course.

(b) A local education provider may accommodate the range of student interests and aspirations by adopting multiple curricula that, combined, create multiple postsecondary and workforce readiness programs within a school district or within a high school that are designed to prepare a student for differing post-graduation goals, including but not limited to immediate entry into the workforce or matriculation into career and technical education or higher education. The local education provider shall ensure, however, that every postsecondary and workforce readiness program adopted by the local education provider:

(I) Is aligned with postsecondary and workforce readiness such that a student who successfully completes the program will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma; and

(II) Includes courses in visual arts and performing arts.

(c) For purposes of this section, a district charter high school shall be deemed to be operated by the chartering local school board; except that the chartering local school board, by charter contract, may allow the district charter high school to adopt its own postsecondary and workforce readiness program, separate from that adopted by the local school board. Each district charter high school that adopts its own postsecondary and workforce readiness program shall ensure that the program is aligned with postsecondary and workforce readiness such that a student who successfully completes the postsecondary and workforce readiness program will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(3) (a) It is the intent of the general assembly that, on or before December 15, 2013, each student who enrolls in a public high school operated by a local education provider shall enroll in and successfully complete a postsecondary and workforce readiness program. Each local education provider shall require each high school student, beginning in ninth grade and continuing through twelfth grade, to enroll in the local education provider's postsecondary and workforce readiness program.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a local education provider may allow a student who is receiving special education services to demonstrate attainment of postsecondary and workforce readiness through a differentiated plan for purposes of the postsecondary and workforce readiness program and the postsecondary and workforce planning, preparation, and readiness assessments, if required in the student's individualized education program.

(4) The department of education, the department of higher education, and the state institutions of higher education, upon request, shall provide support to local education providers in implementing postsecondary and workforce readiness. Beginning with the 2009-10 budget year, the department of education and the department of higher education may include in their annual budget requests an amount necessary to offset the costs incurred in complying with this section. Support may include, but need not be limited to:

(a) Assisting the local education provider in reviewing and revising curriculum;

(b) Communicating with educators, local school board members, board of cooperative services board members, charter school governing board members, school district and school administrators, parents, and members of the business community;

(c) Providing professional development for educators; and

(d) Collecting and making available a resource bank of examples of best practices in national, state, school district, school, and classroom reform efforts consistent with the intent of this part 10.

**Source:** L. 2008: Entire part added, p. 761, § 1, effective May 14. L. 2010: (2)(b) amended, (HB 10-1273), ch. 233, p. 1022, § 9, effective May 18; (3)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 29, effective June 10.



**Cross references:** For the legislative declaration in the 2010 act amending subsection (2)(b), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1016. Postsecondary and workforce planning, preparation, and readiness assessments - transcripts.** (1) Each local education provider shall administer the postsecondary and workforce planning, preparation, and readiness assessments adopted by the state board and the commission pursuant to section 22-7-1008 within two years of the adoption of such assessments. Upon receiving the results following administration of the postsecondary and workforce planning, preparation, and readiness assessments, the local education provider shall provide to each student a printed copy of the student's assessment results, and a teacher or counselor shall review each student's results with the student and, to the extent practicable, with the student's parent or legal guardian and determine the areas in which the student continues to need instruction in order to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(2) Each high school student's final transcript shall describe the student's level of postsecondary and workforce readiness by:

(a) Indicating the student's level of performance in the postsecondary and workforce readiness program; and

(b) Indicating the student's level of performance on the postsecondary and workforce planning, preparation, and readiness assessments.

(3) A local education provider, at its discretion, may choose to identify demonstration of postsecondary and workforce readiness as a graduation requirement for the school district or for the school.

(4) (a) A local education provider shall not apply a student's level of performance in the postsecondary and workforce readiness program or on the postsecondary and workforce planning, preparation, and readiness assessments to prohibit the student from participating in any program operated by the local education provider through which the student may earn postsecondary or career and technical education course credits while enrolled in high school.

(b) A student who demonstrates attainment of postsecondary and workforce readiness while enrolled in any of grades nine through twelve shall be eligible to participate in a program through which the student may earn postsecondary or career and technical education course credits while enrolled in high school.

(5) (a) Beginning in the 2012-13 academic year, if a student with limited English proficiency, as defined in section 22-24-103 (4), is enrolled in eleventh or twelfth grade and the student has not demonstrated attainment of the standard for English language competency and has not demonstrated postsecondary and workforce readiness, the local education provider with which the student is enrolled shall provide to the student additional services and supports as necessary to assist the student in attaining the standard.

(b) Following receipt of the cost study report delivered March 1, 2010, pursuant to section 22-7-1018 (2) (a), the general assembly shall address the services and resources necessary for implementation of paragraph (a) of this subsection (5).

**Source:** **L. 2008:** Entire part added, p. 763, § 1, effective May 14. **L. 2010:** (5)(a) amended, (SB 10-062), ch. 168, p. 594, § 9, effective April 29; (1) and (5)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 30, effective June 10.

**Editor's note:** Amendments to subsection (5)(a) by Senate Bill 10-062 and House Bill 10-1013 were harmonized.

**22-7-1017. High school diploma - endorsement - effect.** (1) (a) Following adoption by the state board, pursuant to section 22-7-1009, of the criteria for endorsing a diploma as reflecting postsecondary and workforce readiness, a local school board, a BOCES, or an institute charter high school may choose to grant a postsecondary and workforce readiness endorsement to each graduating high school student who meets the criteria.

(b) Following adoption by the state board of the criteria for endorsing a diploma as reflecting extraordinary academic achievement or exemplary demonstration by a student of

postsecondary and workforce readiness, a local school board, a BOCES, or an institute charter high school may choose to grant such an endorsement to each graduating high school student who meets the criteria.

(c) A local school board, a BOCES, or an institute charter high school may also choose to grant endorsements in specified areas of focus and achievement, following adoption of the criteria for said endorsements by the state board pursuant to section 22-7-1009.

(2) Following approval of the criteria by the commission and the governing boards of the state institutions of higher education, as provided in section 22-7-1009 (3), a student who graduates with a high school diploma that includes a postsecondary and workforce readiness endorsement shall be guaranteed:

(a) To meet minimum academic qualifications for admission to, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at all open, modified open, or moderately selective public institutions of higher education in Colorado; and

(b) To receive priority consideration, in conjunction with additional admissions criteria, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at all other public institutions of higher education in Colorado. The additional admissions criteria shall be determined by each institution of higher education.

**Source: L. 2008:** Entire part added. p. 764, § 1, effective May 14.

**22-7-1018. Cost study.** (1) (a) On or before September 15, 2009, the department of education, in consultation with the department of higher education, shall contract with an independent entity to conduct a study of the costs of implementing the provisions of this part 10. At a minimum, the study shall address the anticipated costs to be incurred by the department of education, the department of higher education, local education providers, and state institutions of higher education in implementing the provisions of this part 10.

(b) In selecting an independent entity to conduct the cost study, the department of education shall consult with the department of higher education and shall ensure that the selected entity has expertise in school finance and higher education finance statutes and issues in this state and nationally.

(c) At a minimum, the cost study shall address the costs associated with:

(I) Reviewing, adopting, and implementing standards and curricula to meet or exceed the newly adopted preschool through elementary and secondary education standards, including but not limited to implementing the English language competency standards and providing services and supports as required in section 22-7-1016 (5);

(II) Implementing the assessment system for the preschool through elementary and secondary education standards;

(III) Implementing the school readiness description and assessments, including creating and implementing individualized readiness plans;

(IV) Incorporating career and technical education standards into the curricula;

(V) Aligning the preschool, elementary, secondary, and postsecondary education curricula with the postsecondary and workforce readiness description and administering and reviewing the postsecondary and workforce planning, preparation, and readiness assessments;

(VI) Making changes to the postsecondary admissions processes and publications to take into account the postsecondary and workforce readiness description and the postsecondary and workforce planning, preparation, and readiness assessments; and

(VII) Reviewing, adopting, and implementing standards in educator preparation programs to incorporate the preschool through elementary and secondary education standards, the school readiness description, the system of assessments, the individualized readiness plans, the postsecondary and workforce readiness description, and the postsecondary and workforce planning, preparation, and readiness assessments.

(2) The entity selected to conduct the cost study shall submit reports to the department of education and the department of higher education in accordance with the following timeline:



(a) On or before March 1, 2010, a report of the costs pertaining to adoption and implementation of the school readiness description; the preschool through elementary and secondary education standards, including but not limited to the English language competency standards; and the postsecondary and workforce readiness description;

(b) On or before October 1, 2011, a report of the costs pertaining to implementation of the school readiness assessments, the system of assessments that is aligned with the preschool through elementary and secondary education standards, and the postsecondary and workforce planning, preparation, and readiness assessments; and

(c) On or before October 1, 2014, a report of the costs pertaining to implementation of the diploma endorsements.

(3) As soon as possible following receipt of each report specified in subsection (2) of this section, the department of education shall submit the report to the joint budget committee of the general assembly and to the education committees of the senate and the house of representatives, or any successor committees.

**Source:** **L. 2008:** Entire part added, p. 765, § 1, effective May 14. **L. 2010:** (2)(b) and (2)(c) amended, (HB 10-1013), ch. 399, p. 1911, § 31, effective June 10. **L. 2011:** (1)(c)(VII) amended, (SB 11-245), ch. 201, p. 849, § 8, effective August 10. **L. 2012:** (2)(c) amended, (HB 12-1240), ch. 258, p. 1309, § 5, effective June 4.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (1)(c)(VII), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-1019. Preschool to postsecondary and workforce readiness - progress reports - effectiveness reports.** (1) On or before February 15, 2009, and on or before February 15 each year thereafter through 2012, the department of education shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report summarizing the actions taken by the state board, the commission, and local education providers in implementing the requirements specified in this part 10. The department may include in the report recommendations, as may be necessary, for legislative changes in the time line for implementation of this part 10.

(2) On or before February 15, 2014, and on or before February 15 each year thereafter, the department of education shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the results achieved through implementation of school readiness, the preschool through elementary and secondary education standards, and postsecondary and workforce readiness.

(3) (a) At a minimum, the report shall include the following information for the preceding academic year:

(I) The levels of school readiness demonstrated by students enrolled in kindergarten;

(II) The number of students enrolling in the postsecondary and workforce readiness programs and the number of students making adequate longitudinal progress through and completing the postsecondary and workforce readiness programs;

(III) The levels of postsecondary and workforce readiness demonstrated by high school students; and

(IV) Beginning with the report submitted in 2016, the number of students receiving a high school diploma that includes an endorsement, identified by type of endorsement.

(b) The department of education shall present the information in the report on a statewide basis and shall disaggregate the information by school district, school, grade level, free or reduced-cost lunch eligibility status, gender, and ethnicity, and by any other characteristic deemed by the department to be meaningful.

(4) Each local education provider shall cooperate with the department of education in providing the information necessary for the reports prepared pursuant to this section.

**Source:** **L. 2008:** Entire part added, p. 767, § 1, effective May 14. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1911, § 32, effective June 10.



## PART 11

## EDUCATIONAL SUCCESS TASK FORCE

**22-7-1101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Studies indicate there are several significant transition points in a student's educational career at which it is especially important to ensure that the student is performing at grade level or higher. A student who is not performing at grade level at these points is more likely to continue to experience academic difficulties and is less likely to demonstrate postsecondary and workforce readiness when he or she graduates from high school, if the student graduates from high school at all.

(b) Data collected in the postsecondary education system shows that a student who graduates from high school and enters postsecondary education in need of remediation will take significantly longer to complete his or her degree, if the student completes a degree at all;

(c) More than fifty-two percent of the first-time, degree-seeking students who enrolled in a community college in the 2008-09 academic year required remediation in at least one subject;

(d) Data collected over time shows that, of the students enrolled in a remedial course, forty to fifty percent will not complete the course and only twenty-nine percent will ultimately earn a bachelor's degree. This leads to the conclusion that, overall, a student who places into remedial education has only a thirteen percent chance of eventually receiving a bachelor's degree.

(e) Studies show that children who receive high-quality, early-childhood education services, including full-day preschool and full-day kindergarten, achieve greater academic success in later grades, are less likely to need intervention education services during the elementary and secondary grades, and are less likely to place into remedial education upon entering postsecondary grades;

(f) If a student who is performing below expectations academically at the significant transition points in his or her educational career receives additional assistance, especially at the earlier transition points, the student is more likely to catch up to where he or she needs to be and to continue to be academically successful through high school and postsecondary education;

(g) There is a great deal of data available concerning successful strategies for identifying and remediating students at these significant transition points that, if collected and made more accessible, could assist school districts, schools, and institutions of higher education in ensuring that they identify students who need additional education services and assistance and that they provide those services at the appropriate junctures.

(2) The general assembly finds, therefore, that it is in the best interests of the state public education system and the students of the state to create a task force to review the relevant data and studies and recommend to school districts, schools, and institutions of higher education best practices and strategies for identifying and assisting students to ensure that they are successful throughout their academic careers and demonstrate postsecondary and workforce readiness when they graduate from high school. The task force shall also recommend to the general assembly, the state board of education, and the Colorado commission on higher education changes to statutes, rules, or guidelines that may strengthen the ability of school districts, schools, and institutions of higher education to identify and assist students in achieving academic success and demonstrating postsecondary and workforce readiness.

**Source: L. 2011:** Entire part added, (SB 11-111), ch. 202, p. 852, § 1, effective May 23.

**22-7-1102. Definitions.** As used in this part 11, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education established in section 23-1-102, C.R.S.

(2) "Individual career and academic plan" or "ICAP" means the plan described in section 22-2-136 and required pursuant to sections 22-30.5-505 (3) (f) and 22-32-109 (1) (nn) no later than ninth grade for each student enrolled in a public school in the state.

(3) "Intervention education services" means educational services and support provided to a student to accelerate the student's learning and assist the student in achieving the level of academic performance that is appropriate for his or her grade level.

(4) "Postsecondary and workforce readiness" means the level of academic achievement described by the state board and the commission pursuant to section 22-7-1008.

(5) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(6) "Task force" means the educational success task force created in section 22-7-1103.

**Source: L. 2011:** Entire part added, (SB 11-111), ch. 202, p. 853, § 1, effective May 23.

**22-7-1103. Educational success task force - created - membership.** (1) There is hereby created in the department of education the educational success task force to study and review the data on intervention education services in elementary and secondary education and remedial education in postsecondary education, to recommend best practices and strategies to school districts and public schools, and to recommend statutory and regulatory changes, as it deems appropriate, to the general assembly, the state board, and the commission.

(2) (a) The state board and the commission shall jointly appoint members of the task force in such numbers as they deem appropriate. The membership of the task force shall include persons who have experience in intervention education services and remedial education as researchers, practitioners, and parents of students who have received or may receive intervention education services or remedial education. At a minimum, the state board and the commission shall appoint to the task force:

(I) Persons who are experts in one or more of the areas of early childhood education; elementary and secondary education; childhood and adolescent learning theory; curriculum development, especially with regard to intervention education services and programs and intervention strategies; and postsecondary education, especially with regard to remediation programs and strategies;

(II) Parents of students enrolled in public schools in the state, including parents who serve on the Colorado state advisory council for parent involvement in education created in section 22-7-303;

(III) Members of the early childhood leadership commission created in section 24-44.7-102, C.R.S., who have expertise in early childhood development and education;

(IV) Elementary and secondary teachers from urban and rural school districts or public schools;

(V) Representatives of urban and rural school districts;

(VI) Persons who assist students, including students with disabilities, in planning for postsecondary education, which persons may include but need not be limited to persons who specialize in programs and services for exceptional students; persons with expertise in creating and maintaining individual career and academic plans; high school counselors; representatives from precollegiate preparation programs; representatives from career and technical education programs; admissions officers for postsecondary institutions; and disability coordinators for postsecondary institutions;

(VII) Representatives of institutions of higher education, including at a minimum representatives of area vocational schools, junior colleges, two-year institutions, four-year institutions, and the research universities;

(VIII) Members of the business community; and

(IX) Representatives from bipartisan or nonpartisan nonprofit organizations that study or advocate in education issues.

(b) In addition to the members appointed pursuant to paragraph (a) of this subsection (2), the task force shall include the following legislative members:

(I) Three members from the senate, two of whom are appointed by the president of the senate and one of whom is appointed by the minority leader of the senate; and



(II) Three members from the house of representatives, two of whom are appointed by the speaker of the house of representatives and one of whom is appointed by the minority leader of the house of representatives.

(3) (a) The appointing authorities shall make the appointments to the task force no later than August 1, 2011. The nonlegislative members of the task force shall serve without compensation and without reimbursement for expenses.

(b) In appointing members of the task force, the state board and the commission may appoint individual persons to satisfy the criteria in more than one of subparagraphs (I) to (IX) of paragraph (a) of subsection (2) of this section. The members of the task force shall serve at the pleasure of their respective appointing authorities.

(c) The state board and the commission shall jointly appoint up to three members of the task force to serve as chair or co-chairs of the task force. If the state board and the commission appoint co-chairs, the persons appointed shall be representative of the various interests serving on the task force. The task force shall hold its first meeting no later than September 1, 2011, and shall subsequently meet at the call of the chair or co-chairs as often as necessary to carry out its duties.

(d) The chair or co-chairs of the task force may appoint subcommittees of the task force as necessary to complete the duties of the task force. In addition to task force members, a subcommittee may include persons selected by the chair or co-chairs but who are not appointed members of the task force.

(4) The department of education and the department of higher education may provide staff support to the task force as necessary and practicable within existing appropriations. The legislative council staff and the office of legislative legal services shall provide staff support to the task force.

**Source: L. 2011:** Entire part added, (SB 11-111), ch. 202, p. 854, § 1, effective May 23.

**22-7-1104. Educational success task force - duties - reports.** (1) In addition to any other duties specified in this part 11, the task force shall have the following duties:

(a) To identify the junctures within a student's academic career at which grade-level academic performance, or higher, is critical to a student's continued academic progress and to ensuring the student can demonstrate postsecondary and workforce readiness no later than high school graduation;

(b) To review the data and research on intervention education services and remedial education and identify best practices and strategies for identifying students in need of intervention education services, for providing intervention education services at the appropriate junctures in the elementary and secondary education levels, and for providing remedial education at the postsecondary education level. Best practices and strategies may include, but need not be limited to, recommendations regarding curriculum, methods of delivering intervention education services at the elementary and secondary education levels, professional development, and methods of delivering remedial education services in postsecondary education, including the use of diagnostic placement testing, the use of modularized, shorter-term courses, electronic delivery of course work, and tutoring;

(c) To review the use of students' individual career and academic plans and make recommendations for diagnostically using a student's assessment results in creating and maintaining the student's ICAP and for including intervention strategies, where appropriate, in a student's ICAP;

(d) To review the practice of social promotion in the public schools of the state and recommend alternative strategies for ensuring students are making sufficient academic progress to demonstrate postsecondary and workforce readiness no later than high school graduation; and

(e) To review state statutes, state board rules, and the guidelines adopted by the commission and recommend any appropriate changes to assist school districts and public schools in providing intervention education services to help ensure that students demonstrate postsecondary and workforce readiness no later than high school graduation and to assist institutions of higher education in providing remedial education.



(2) In fulfilling its duties, the task force shall work with the education leadership council created by the governor in executive order B 2010-010. The task force shall consult with the education leadership council in setting its meeting agendas, organizing its work plan, and preparing its reports. In addition to the duties specified in this section, the task force may respond to requests from the education leadership council for information, findings, and reports on topics identified by the education leadership council that are complementary to the topics specified in this section.

(3) (a) On or before July 1, 2012, the task force shall submit to the state board and the commission a first report of its findings and recommendations with regard to the critical junctures for ensuring students' academic progress, best practices and strategies for providing intervention education services and remedial education services, the use of ICAPs, and alternative strategies to social promotion. The report may also include any recommendations regarding changes to state board rules or commission guidelines. If the task force makes additional findings or recommendations following submission of the first report, it shall submit a second report to the state board and the commission prior to July 1, 2013.

(b) The state board and the commission shall ensure that the first report and the second report, if any, are published on their respective web sites and publicized to the school districts, public schools, and institutions of higher education in the state.

(4) The task force shall report its findings and recommendations for legislation to the legislative council in accordance with joint rule 24 (b) (1) (D) of the senate and the house of representatives and shall be subject to the limitations on bills specified in said joint rule. Any recommendations for legislation require the approval of a majority of the legislative members of the task force.

(5) During the 2012 regular legislative session, no later than January 31, 2012, and during the 2013 regular legislative session, no later than January 31, 2013, one or more representatives of the task force shall meet with the education committees of the house of representatives and the senate, or any successor committees, in a joint meeting to report progress in fulfilling the duties described in subsection (1) of this section.

**Source: L. 2011:** Entire part added, (SB 11-111), ch. 202, p. 856, § 1, effective May 23.

**22-7-1105. Repeal of part.** This part 11 is repealed, effective July 1, 2013. Notwithstanding the provisions of section 2-3-1203, C.R.S., the task force shall not be subject to review prior to repeal.

**Source: L. 2011:** Entire part added, (SB 11-111), ch. 202, p. 858, § 1, effective May 23.

## PART 12

### COLORADO READ ACT

**22-7-1201. Short title.** This part 12 is known and may be cited as the "Colorado Reading to Ensure Academic Development Act" or "Colorado READ Act".

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1.

**22-7-1202. Legislative declaration.** (1) The general assembly finds that:

(a) All students can succeed in school if they have the foundational skills necessary for academic success. While foundational skills go beyond academic skills to include such skills as social competence and self-discipline, they must also include the ability to read, understand, interpret, and apply information.

(b) Colorado has prioritized early learning through its investments in the Colorado preschool program, established in 1988, and full-day kindergarten, and the general assem-

bly recognizes that these investments can best be leveraged by adopting policies that support a continuum of learning from preschool through third grade and beyond;

(c) It is more cost-effective to invest in effective early literacy education rather than to absorb costs for remediation in middle school, high school, and beyond;

(d) A comprehensive approach to early literacy education can improve student achievement, reduce the need for costly special education services, and produce a better educated, more skilled, and more competitive workforce;

(e) An important partnership between a parent and child begins before the child enters kindergarten, when the parent helps the child develop rich linguistic experiences, including listening comprehension and speaking, that help form the foundation for reading and writing, which are the main vehicles for content acquisition;

(f) The greatest impact for ensuring student success lies in a productive collaboration among parents, teachers, and schools in providing a child's education, so it is paramount that parents are informed about the status of their children's educational progress and that teachers and schools receive the financial resources and other resources and support they need, including valid assessments, instructional programming that is proven to be effective, and training and professional development programs, to effectively teach the science of reading, assess students' achievement, and enable each student to achieve the grade level expectations for reading; and

(g) The state recognizes that the provisions of this part 12 are not a comprehensive solution to ensuring that all students graduate from high school ready to enter the workforce or postsecondary education, but they assist local education providers in setting a solid foundation for students' academic success and will require the ongoing commitment of financial and other resources from both the state and local levels.

(2) It is therefore the intent of the general assembly that each local education provider that enrolls students in kindergarten or first, second, or third grade will work closely with the parents and teachers of these students to provide the students the instructional programming, intervention instruction, and support, at home and in school, necessary to ensure that students, by the completion of third grade, can demonstrate a level of competency in reading skills that is necessary to support them in achieving the academic standards and expectations applicable to the fourth-grade curriculum. It is further the intent of the general assembly that each local education provider adopt a policy whereby, if a student has a significant reading deficiency at the end of any school year prior to fourth grade, the student's parent and teacher and other personnel of the local education provider decide whether the student should or should not advance to the next grade level based on whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1.

**22-7-1203. Definitions.** As used in this part 12, unless the context otherwise requires:

(1) "Body of evidence" means a collection of information about a student's academic performance which, when considered in its entirety, documents the level of a student's academic performance. A body of evidence, at a minimum, shall include scores on formative or interim assessments and work that a student independently produces in a classroom, including but not limited to the school readiness assessments adopted pursuant to section 22-7-1004 (2) (a). A body of evidence may include scores on summative assessments if a local education provider decides that summative assessments are appropriate and useful in measuring students' literacy skills.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title.

(4) "Evidence based" means the instruction or item described is based on reliable, trustworthy, and valid evidence and has demonstrated a record of success in adequately



increasing students' reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension.

(5) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(6) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(7) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research—U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(8) (a) "Parent" means a student's biological or adoptive parent, stepparent, foster parent, or legal guardian.

(b) As provided in section 2-4-102, C.R.S., the singular use of "parent" includes the plural, and local education providers shall, to the extent practicable, involve both of a student's parents, as defined in this subsection (8), in implementing the provisions of this part 12.

(9) "Per-pupil intervention moneys" means the moneys calculated and distributed to local education providers pursuant to section 22-7-1210 (5).

(10) "Reading competency" means a student meets the grade level expectations in reading adopted by the state board.

(11) "Reading to ensure academic development plan" or "READ plan" means an intervention plan created pursuant to section 22-7-1206 to remediate a student's significant reading deficiency.

(12) "Response to intervention framework" means a systemic preventive approach that addresses the academic and social-emotional needs of all students at the universal, targeted, and intensive levels. Through the response to intervention framework, a teacher provides high-quality, scientifically based or evidence-based instruction and intervention that is matched to student needs; uses a method of monitoring progress frequently to inform decisions about instruction and goals; and applies the student's response data to important educational decisions.

(13) "School district" means a school district, other than a junior college district, organized and existing pursuant to law.

(14) "Scientifically based" means that the instruction or item described is based on research that applies rigorous, systematic, and objective procedures to obtain valid knowledge that is relevant to reading development, reading instruction, and reading difficulties.

(15) "Significant reading deficiency" means that a student does not meet the minimum skill levels for reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension established by the state board pursuant to section 22-7-1209 for the student's grade level.

(16) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(17) "Teacher" means the educator who is the main instructor for a class of students or an educator who provides specific literacy instruction to selected students.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 648, § 2, effective July 1.

**22-7-1204. Early literacy education.** Each local education provider that enrolls students in kindergarten or first, second, or third grade shall provide to the students enrolled in said grades the instructional programming and services necessary to ensure to the greatest



extent possible that students, as they progress through kindergarten, first, second, and third grade, develop the necessary reading skills to enable them to master the academic standards and expectations applicable to the fourth-grade curriculum and beyond.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 649, § 2, effective July 1.

**22-7-1205. Reading competency - assessments - READ plan creation - parental involvement.** (1) (a) Each local education provider that enrolls students in kindergarten or first, second, or third grade shall ensure that teachers measure each student's reading competency using interim reading assessments at least once during the spring semester of the 2012-13 school year and throughout the year in subsequent school years. A local education provider may also administer a summative assessment to measure students' reading competency at the conclusion of kindergarten, first, and second grades. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it shall use to measure a student's reading competency. A local education provider may choose to use other reading assessments in addition to but not in lieu of the approved assessments.

(b) If a teacher finds, based on a student's scores on the approved reading assessments, that the student may have a significant reading deficiency, the teacher shall administer to the student one or more diagnostic assessments to determine the student's specific reading skill deficiencies. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it shall use to determine a student's specific reading skill deficiencies. A local education provider may choose to use other diagnostic reading assessments in addition to but not in lieu of the approved assessments.

(c) Beginning with the 2012-13 school year, each local education provider shall annually report to the department the state-assigned student identifier for each student who is identified pursuant to this subsection (1) as having a significant reading deficiency.

(2) (a) Beginning no later than the 2013-14 school year, upon finding that a student has a significant reading deficiency, the local education provider shall ensure that the student receives a READ plan, as described in section 22-7-1206. The teacher and any other skilled school professionals the local education provider may choose to select shall, if possible, meet with the student's parent to communicate and discuss the information specified in paragraph (b) of this subsection (2) and jointly create the student's READ plan. Upon completion of the meeting or as soon as possible thereafter, the teacher or other personnel of the local education provider shall give the parent a written explanation of the information specified in paragraph (b) of this subsection (2) and a copy of the student's READ plan. To the extent practicable, the teacher and other personnel shall communicate with the parent, orally and in writing, in a language the parent understands.

(b) The teacher and the other personnel shall communicate and discuss with the parent the following information:

(I) The state's goal is for all children in Colorado to graduate from high school having attained skill levels that adequately prepare them for postsecondary studies or for the workforce, and research demonstrates that achieving reading competency by third grade is a critical milestone in achieving this goal;

(II) The nature of the student's significant reading deficiency, including a clear explanation of what the significant reading deficiency is and the basis upon which the teacher identified the significant reading deficiency;

(III) If the student enters fourth grade without achieving reading competency, he or she is significantly more likely to fall behind in all subject areas beginning in fourth grade and continuing in later grades. If the student's reading skill deficiencies are not remediated, it is likely that the student will not have the skills necessary to complete the course work required to graduate from high school.

(IV) Reading skills are critical to success in school. Under state law, the student qualifies for and the local education provider is required to provide targeted, scientifically based or evidence-based interventions to remediate the student's specific, diagnosed

reading skill deficiencies, which interventions are designed to enable the student to achieve reading competency and attain the skills necessary to achieve the state's academic achievement goals;

(V) The student's READ plan will include targeted, scientifically based or evidence-based intervention instruction to address and remediate the student's specific, diagnosed reading skill deficiencies;

(VI) The parent plays a central role in supporting the student's efforts to achieve reading competency, the parent is strongly encouraged to work with the student's teacher in implementing the READ plan, and, to supplement the intervention instruction the student receives in school, the READ plan will include strategies the parent is encouraged to use at home to support the student's reading success; and

(VII) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, if the student continues to have a significant reading deficiency at the end of the school year, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

(c) In addition to the information specified in paragraph (b) of this subsection (2), the teacher and the other personnel of the local education provider are encouraged to communicate and discuss information concerning resources that are available through the local education provider or through other entities within the community that may support the student in achieving reading competency.

(3) (a) If, after making documented attempts, the teacher is unable to meet with the student's parent to create the READ plan, the teacher and any other skilled school professionals the local education provider may choose to select shall create the student's READ plan and ensure that the student's parent receives the following information in a language the parent understands, if practicable:

(I) A written copy of the READ plan with a clear, written explanation of the scientifically based or evidence-based reading instructional programming and other reading-related services the student will receive under the plan and the strategies that the parent is encouraged to apply in assisting the student in achieving reading competency; and

(II) A written explanation of the information specified in paragraph (b) of subsection (2) of this section.

(b) At a parent's request, the teacher and any other skilled school professionals the local education provider may choose to select shall meet with the parent to provide a verbal explanation of the elements of the READ plan.

(4) The local education provider shall ensure that the parent of each student who has a READ plan receives ongoing, regular updates from the student's teacher, which may occur through existing methods of communication, concerning the results of the intervention instruction described in the plan and the student's progress in achieving reading competency. The student's teacher is encouraged to communicate with the parent concerning the parent's progress in implementing the home reading strategies identified in the student's READ plan. To the extent practicable, the teacher shall communicate with the parent in a language the parent understands.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 650, § 2, effective July 1.

**22-7-1206. Reading to ensure academic development plan - contents - implementation.** (1) (a) A teacher, and other skilled school professionals that the local education provider may choose to select, shall create a READ plan for each student who has a significant reading deficiency. The teacher and any other personnel shall create the plan in collaboration with the student's parent, if possible, and as soon as possible after the student's significant reading deficiency is identified. The student, the student's teacher, and the student's parent shall continue implementing the student's READ plan until the student demonstrates reading competency. The student's teacher shall review the student's READ



plan at least annually and update or revise the READ plan as appropriate to facilitate the student's progress in demonstrating reading competency.

(b) Each local education provider shall ensure that a student's current READ plan, any earlier versions of the READ plan, and any supporting documentation for the plan and the body of evidence that demonstrates a student's progress in implementing the plan are included in the student's permanent academic record and are transferred if the student subsequently enrolls in another school.

(2) (a) If a student's reading skills are below grade level expectations, as adopted by the state board, but the student does not have a significant reading deficiency, the local education provider shall ensure that the student receives appropriate interventions through the response to intervention framework or a comparable intervention system implemented by the local education provider.

(b) If a student has a significant reading deficiency, the student's READ plan shall include the intervention instruction that the local education provider provides through the response to intervention framework or a comparable intervention system implemented by the local education provider.

(3) Notwithstanding any provision of this part 12 to the contrary, if a student is identified as having a disability that impacts the student's progress in developing reading skills, the local education provider shall, as appropriate, integrate into the student's individualized education program created pursuant to section 22-20-108 intervention instruction and strategies to address the student's reading issues in lieu of a READ plan.

(4) If a student enrolled in kindergarten is identified as having a significant reading deficiency, the local education provider shall create the student's READ plan as a component of the student's individualized readiness plan created pursuant to section 22-7-1014.

(5) Each READ plan shall include, at a minimum:

(a) The student's specific, diagnosed reading skill deficiencies that need to be remediated in order for the student to attain reading competency;

(b) The goals and benchmarks for the student's growth in attaining reading competency;

(c) The type of additional instructional services and interventions the student will receive in reading;

(d) The scientifically based or evidence-based reading instructional programming the teacher will use to provide to the student daily reading approaches, strategies, interventions, and instruction, which programs at a minimum shall address the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension. The local education provider may choose to select the programs from among those included on the advisory list prepared by the department pursuant to section 22-7-1209;

(e) The manner in which the local education provider will monitor and evaluate the student's progress;

(f) The strategies the student's parent is encouraged to use in assisting the student to achieve reading competency that are designed to supplement the programming described in paragraph (d) of this subsection (5); and

(g) Any additional services the teacher deems available and appropriate to accelerate the student's reading skill development.

(6) Each local education provider shall ensure that a teacher continues to revise and implement a student's READ plan until the student attains reading competency, regardless of the student's grade level and regardless of whether the student was enrolled with the local education provider when the READ plan was originally created or the student transferred enrollment to the local education provider after the READ plan was created.

(7) (a) If a student is identified as having a significant reading deficiency for a second or subsequent consecutive school year, the local education provider shall ensure that, in the second or subsequent consecutive school year:

(I) The student's teacher revises the student's READ plan to include additional, more rigorous strategies and intervention instruction to assist the student in attaining reading competency, including increased daily time in school for reading instruction;



(II) The principal of the school in which the student is enrolled ensures that the student receives reading instruction in conjunction with and supported through the other subjects in which the student receives instruction during the school day; and

(III) If practicable, the student receives reading instruction from a teacher who is identified as effective or highly effective in his or her most recent performance evaluation and has expertise in teaching reading.

(b) In addition, with the approval of the student's parent, the local education provider may provide to the student mental health support from the school psychologist, school social worker, or school counselor.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 652, § 2, effective July 1.

**22-7-1207. Advancement - decision - parental involvement.** (1) Beginning no later than the 2013-14 school year, if, within forty-five days before the end of any school year prior to a student's fourth-grade year, a teacher finds that a student has a significant reading deficiency, personnel of the local education provider shall provide to the student's parent the written notice described in subsection (2) of this section; except that the provisions of this section shall not apply if:

(a) The student is a student with a disability who is eligible to take the alternative statewide assessment, or the student is identified as having a disability that substantially impacts the student's progress in developing reading skills, resulting in the student's significant reading deficiency;

(b) The student is a student with limited English proficiency, as defined in section 22-24-103, and the student's significant reading deficiency is due primarily to the student's language skills; or

(c) The student is completing the second school year at the same grade level.

(2) The written notice that the personnel provides to a parent pursuant to subsection (1) of this section at a minimum shall state that:

(a) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(b) Personnel of the student's school will work with the parent to schedule a date, time, and place for the meeting; and

(c) If the parent does not attend the meeting, the teacher and personnel of the local education provider will decide whether the student will advance to the next grade level in the next school year.

(3) After sending the written notice, personnel of the student's school shall contact the parent to schedule the meeting to decide whether the student will advance to the next grade level. If, after making documented attempts to schedule the meeting with the parent, personnel of the student's school are unable to schedule the meeting, or if the parent does not attend the scheduled meeting, the teacher and personnel selected by the local education provider shall decide, based on the student's body of evidence, whether the student will advance to the next grade level for the next school year.

(4) (a) At the meeting required by this section, the teacher and any other personnel selected by the local education provider shall, at a minimum, communicate to and discuss with the parent the following information:

(I) That there are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(II) The importance of achieving reading competency by the end of third grade, because students who achieve reading competency by the end of third grade are more likely to graduate from high school and attain a postsecondary credential;

(III) The student's body of evidence and the likelihood that the student, despite having a significant reading deficiency, will be able to maintain adequate academic progress at the next grade level;

(IV) The increased level of intervention instruction the student will receive in the next school year regardless of whether the student advances to the next grade level; and

(V) The potential effects on the student if he or she does not advance to the next grade level.

(b) After discussing the issues specified in paragraph (a) of this subsection (4), the parent, the teacher, and the other personnel shall decide whether the student will advance to the next grade level in the next school year. If the parent, teacher, and other personnel are not in agreement, the parent shall decide whether the student will advance to the next grade level unless otherwise specified in the policy adopted by the local education provider.

(5) As soon as possible after the decision is made pursuant to subsection (3) of this section or at the conclusion of the meeting described in subsection (4) of this section, the personnel of the local education provider shall provide to the parent a written statement that the student will or will not advance to the next grade level in the next school year and the basis for the decision. The personnel shall also provide a copy of the statement to the school district superintendent, if the student is enrolled in a public school of a school district that is not a charter school, or to the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. The local education provider shall include the statement in the student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(6) Notwithstanding any provision of paragraph (b) of subsection (4) of this section to the contrary, beginning with the 2016-17 school year, if a student is completing third grade and the student's teacher and other personnel decide pursuant to subsection (3) of this section or the student's parent decides pursuant to subsection (4) of this section that the student will advance to fourth grade even though the student has a significant reading deficiency, the decision to advance the student is subject to approval of the school district superintendent or the superintendent's designee, if the student is enrolled in a public school of a school district that is not a charter school, or subject to approval of the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. If the superintendent, or his or her designee, or the principal, whichever is applicable, does not approve the decision to advance the student, the student shall not advance to fourth grade in the next school year. As soon as possible, the local education provider shall provide a written statement to the parent concerning the decision of the superintendent or designee or the principal and the basis for the decision. The local education provider shall include the statement in the student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(7) Each local education provider shall ensure that, to the extent practicable, all of the oral and written communications to a parent that are required in this section are delivered in a language the parent understands.

(8) The provisions of this section specify the circumstances under which a local education provider, in collaboration with a student's teacher and parent, is required to decide whether a student who has a significant reading deficiency should advance to the next grade level. The provisions of this part 12 do not limit the ability of a local education provider to decide, in accordance with policies and procedures of the local education provider, that a student at any grade level should not advance to the next grade level for any reason deemed sufficient by the local education provider.



**22-7-1208. Local education providers - procedures.** (1) Each local education provider shall adopt the procedures necessary to comply with the requirements specified in this part 12. In adopting procedures, a local education provider shall comply with and may exceed the requirements of this part 12. Procedures may include, but need not be limited to, procedures for:

- (a) Creating a READ plan and the contents of a READ plan;
- (b) Effectively communicating with parents concerning the creation, contents, and implementation of READ plans; and
- (c) Determining whether a student who has a significant reading deficiency will advance to the next grade level.

(2) A local education provider is not required to start a READ plan or convert an individual literacy plan to a READ plan for a student who is enrolled in fourth grade or higher as of the 2013-14 school year.

(3) Each local education provider is encouraged to report to the department the strategies and intervention instruction that the local education provider finds effective in assisting students to attain reading competency and to provide copies of effective materials to the department to assist the department in sharing with local education providers best practices in assisting students to attain reading competency.

(4) Local education providers are encouraged to provide parents opportunities to participate in parent reading workshops throughout the school year to assist parents in developing their own reading skills and in developing the skills necessary to assist their children in reading.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 657, § 2, effective July 1.

**22-7-1209. State board - rules - department - duties.** (1) The state board shall promulgate rules in accordance with the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., as necessary to implement the provisions of this part 12, which rules shall include, but need not be limited to:

(a) The minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades. The state board shall base the minimum skill levels for second and third grades primarily on scores attained on the assessments approved by the state board pursuant to paragraph (b) of this subsection (1). The state board shall describe the minimum skill levels for students as they complete kindergarten and first grade using matrices of appropriate indicators, which indicators may include measures of students’ social and emotional development, physical development, language and comprehension development, and cognition and general knowledge. The state board shall adopt the rules described in this paragraph (a) by March 31, 2013.

(b) The list of approved reading assessments, based on the recommendations of the department, that local education providers may use to meet the requirements specified in section 22-7-1205. The state board shall adopt the list of approved reading assessments by March 31, 2013.

(c) Rules for approving one or more independent third-party evaluators to review reading assessments for inclusion on the approved list of assessments and to review instructional programming and professional development programs for inclusion on the advisory lists created by the department pursuant to subsections (2) and (3) of this section;

(d) Rules to provide notice and an appeals process, which may be a process for written appeals, for publishers who submit materials for inclusion on the list of approved assessments and the advisory lists of instructional programming and professional development programs;

(e) The time frames and procedures for reporting information concerning students’ reading skills as described in section 22-7-1213; and

(f) Rules for implementing the early literacy grant program pursuant to section 22-7-1211.



(2) (a) (I) Using the procedure developed pursuant to subsection (3) of this section, the department shall review and recommend to the state board reading assessments, including interim, summative, and diagnostic assessments, for kindergarten and first, second, and third grades that, at a minimum, meet the criteria specified in subparagraph (II) of this paragraph (a). Following action by the state board to approve reading assessments pursuant to paragraph (b) of subsection (1) of this section, the department shall create a list of the approved reading assessments for kindergarten and first, second, and third grades for use by local education providers.

(II) The department shall ensure that:

(A) Each of the recommended reading assessments is scientifically based; except that the department may recommend and the state board may, until July 1, 2016, include on the approved list of assessments any reading assessment approved by the state board prior to July 1, 2012, regardless of whether it is scientifically based;

(B) Each of the recommended reading assessments is valid and reliable and proven to effectively and accurately measure students' reading skills in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(C) Each of the recommended reading diagnostics is proven to accurately identify students' specific reading skill deficiencies; and

(D) At least one of the recommended reading assessments for kindergarten and first, second, and third grades is normed for the performance of students who speak Spanish as their native language, which assessment is available in both English and Spanish.

(b) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of scientifically based or evidence-based instructional programming in reading that local education providers are encouraged to use. The advisory list shall include only programming that, at a minimum:

(I) Has been proven to accelerate student progress in attaining reading competency;

(II) Provides explicit and systematic skill development in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(III) Includes scientifically based and reliable assessments;

(IV) Provides initial and ongoing analysis of the student's progress in attaining reading competency; and

(V) Includes texts on core academic content to assist the student in maintaining or meeting grade-appropriate proficiency levels in academic subjects in addition to reading.

(c) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of professional development programs that are related to addressing significant reading deficiencies and to applying intervention instruction and strategies, in addition to programs related to teaching general literacy, that local education providers are encouraged to use.

(d) The department shall make the approved list of assessments available on the department web site on or before April 1, 2013, and the advisory lists of instructional programming and professional development programs available on the department web site on or before July 1, 2013. The department is not required to provide copies of any reading assessments, instructional programming, or professional development programs that are included on the lists. If the department does provide copies of any materials that it acquires by purchase of a license for use by local education providers, said materials may be used only in accordance with the license.

(e) Each local education provider shall select from the list of approved reading assessments those reading assessments that it will administer to students in kindergarten and first, second, and third grades. Each local education provider is encouraged to use the instructional programming in reading and professional development programs included on the advisory lists. The department and each local education provider, in using the assessments, instructional programming in reading, and professional development programs that are included on the lists shall comply with the federal copyright laws, 17 U.S.C. sec. 101 et seq.

(3) The department shall develop and implement a procedure for identifying the reading assessments it recommends to the state board for the approved list of reading assessments described in paragraph (a) of subsection (2) of this section and for creating the advisory lists of instructional programming and professional development programs described in paragraphs (b) and (c) of subsection (2) of this section. At a minimum, the procedure shall include:

(a) Periodically soliciting through public notice, accepting, and promptly reviewing assessments, instructional programming, and professional development programs from each local education provider and from publishers;

(b) Evaluating the assessments, instructional programming, and professional development programs that the department identifies or receives, which evaluation is based on the criteria specified in subsection (2) of this section and any additional criteria the state board may adopt by rule. The department may contract with an independent, third-party evaluator approved by the state board to evaluate the materials. The department shall recommend to the state board the reading assessments that meet the requirements specified in paragraph (a) of subsection (2) of this section.

(c) Periodically reviewing the list of approved assessments and the advisory lists to update the lists and add additional items, when appropriate; and

(d) Publishing on the department's web site the initial and updated approved list of reading assessments and advisory lists of instructional programming and professional development programs.

(4) The department shall specify the information that local education providers shall submit pursuant to section 22-7-1213 and shall analyze the information as necessary to make the determinations specified in section 22-7-1213. If another rule or statute requires local education providers to submit any portion of the specified information, the department shall not require local education providers to resubmit the information, but shall apply the information received pursuant to the other rule or statute in preparing the analysis required in section 22-7-1213.

(5) The department shall make available to local education providers any information and materials it receives pursuant to section 22-7-1208 (3) concerning strategies and intervention instruction that local education providers find effective in assisting students to achieve reading competency, including copies of any effective materials that the department receives.

(6) The department, upon request, may provide technical assistance to a local education provider in implementing the provisions of this part 12.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 658, § 2, effective July 1.

**22-7-1210. Early literacy fund - created - repeal.** (1) The early literacy fund is hereby created in the state treasury and is referred to in this section as the "fund". The fund shall consist of:

(a) Any moneys remaining in the read-to-achieve cash fund as of June 30, 2012;

(b) Moneys transferred to the fund pursuant to subsection (3) of this section;

(c) Moneys transferred to the fund pursuant to section 22-41-102 (3) (c); and

(d) Any other moneys that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer may invest any moneys in the fund not expended for the purposes specified in subsection (4) of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any amount remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or to any other fund.

(3) Except as otherwise provided in section 24-75-1104.5 (1) (h) and (5), C.R.S., beginning with the 2012-13 fiscal year, and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the state treasurer shall annually transfer to the fund five percent of the amount of moneys received by the state in accordance with the master settlement agreement, other than attorney fees and costs, for the



preceding fiscal year; except that the amount so transferred to the fund in any fiscal year shall not exceed eight million dollars. The state treasurer shall transfer the amount specified in this subsection (3) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(4) The moneys in the fund are subject to annual appropriation by the general assembly to the department. The department shall annually expend the moneys in the fund as follows:

(a) (I) For the 2012-13 budget year:

(A) The department shall use the moneys in the fund to pay the grants that were awarded from the read-to-achieve cash fund pursuant to part 9 of this article as it existed prior to July 1, 2012, and are not fully distributed as of June 30, 2012; except that any portion of any of said grants that the grantee is required to use in payment for department consultants is rescinded, effective July 1, 2012; and

(B) The department may use any amount remaining after the payments described in sub-paragraph (A) of this subparagraph (I) to provide literacy support on a regional basis to local education providers to assist them in implementing the requirements of this part 12.

(II) This paragraph (a) is repealed, effective July 1, 2013.

(b) Beginning in the 2013-14 budget year and for budget years thereafter:

(I) The department shall use one million dollars to provide literacy support in the form of professional development delivered by experts in literacy on a regional basis to local education providers to assist them in implementing the requirements of this part 12;

(II) The department shall use four million dollars for grants awarded through the early literacy grant program created in section 22-7-1211;

(III) The department may use up to one percent of the moneys annually appropriated from the fund to offset the costs of administering this part 12; and

(IV) The department shall allocate the remaining moneys annually credited to the fund to the local education providers as per-pupil intervention moneys calculated pursuant to subsection (5) of this section.

(5) (a) (I) The department shall allocate the per-pupil intervention moneys to the local education providers as required in subparagraph (IV) of paragraph (b) of subsection (4) of this section by first dividing the amount of moneys available by the total number of students enrolled in kindergarten and first, second, and third grades in public schools in the state who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the moneys are allocated. The department shall then allocate to each local education provider an amount equal to said per-pupil amount multiplied by the number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the moneys are allocated.

(II) (A) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), for the 2013-14 budget year, the department shall allocate the per-pupil intervention moneys to the local education providers as required in subparagraph (IV) of paragraph (b) of subsection (4) of this section by first dividing the amount of moneys available by the total number of students enrolled in kindergarten and first, second, and third grades in public schools in the state who are identified as having significant reading deficiencies in the 2012-13 budget year. The department shall then allocate to each local education provider an amount equal to said per-pupil amount multiplied by the number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who are identified as having significant reading deficiencies in the 2012-13 budget year.

(B) This subparagraph (II) is repealed, effective July 1, 2014.

(b) A local education provider may use the per-pupil intervention moneys only as follows:

(I) To provide full-day kindergarten services to students enrolled in one or more of the public schools operated by the local education provider;

(II) To operate a summer school literacy program as described in section 22-7-1212;



(III) To purchase tutoring services in reading for students with significant reading deficiencies; or

(IV) To provide other targeted, scientifically based or evidence-based intervention services to students with significant reading deficiencies, which services are approved by the department.

(c) Each budget year, prior to receiving per-pupil intervention moneys, each local education provider shall submit to the department, for informational purposes, an explanation of the manner in which it will use the moneys in the coming budget year and the number of students for which the local education provider may receive per-pupil intervention moneys. If the local education provider intends to provide a service described in subparagraph (IV) of paragraph (b) of this subsection (5), the department shall review the service and provide the per-pupil intervention moneys for the service only if the service meets the requirements specified in said subparagraph (IV).

(d) In using the per-pupil intervention moneys allocated pursuant to this subsection (5), each local education provider shall ensure that some type of intervention, as described in paragraph (b) of this subsection (5), is available to each student who is identified as having a significant reading deficiency and who is enrolled in kindergarten or first, second, or third grade in a school operated by the local education provider.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 661, § 2, effective July 1.

**22-7-1211. Early literacy grant program - created.** (1) There is hereby created in the department the early literacy grant program to provide moneys to local education providers to implement literacy support and intervention instruction programs, including but not limited to related professional development programs, to assist students in kindergarten and first, second, and third grades to achieve reading competency. The state board by rule shall establish the application timelines and the information to be included in each grant application. A local education provider may apply individually or as part of a group of local education providers. A rural school district that is a member of a board of cooperative services may seek assistance in writing the grant application from the board of cooperative services.

(2) The department shall review each grant application received and recommend to the state board whether to award the grant and the duration and amount of each grant. In making recommendations, the department shall consider the following factors:

(a) The percentage of kindergarten and first-, second-, and third-grade students enrolled by the applying local education provider or group of local education providers who have significant reading deficiencies;

(b) The instructional program that the applying local education provider or group of local education providers plans to implement using the grant moneys and whether it is an evidence-based program that is proven to be successful in other public schools in the country;

(c) The cost of the instructional program that the applying local education provider or group of local education providers plans to implement using the grant moneys; and

(d) Any additional factors the state board may require by rule.

(3) Based on the recommendations of the department, the state board shall award grants to applying local education providers or groups of local education providers, which grants are paid from moneys in the early literacy fund created in section 22-7-1210.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 664, § 2, effective July 1.

**22-7-1212. Summer school literacy programs.** (1) A local education provider may choose to use per-pupil intervention moneys to provide an evidence-based summer school literacy program to assist students who are enrolled in kindergarten or first, second, or third grade and who have significant reading deficiencies to achieve reading competency. A local

education provider may allow students who are below grade level expectations in reading, but who do not have significant reading deficiencies, to participate in a summer school literacy program operated pursuant to this section if capacity remains after serving all of the students with significant reading deficiencies who choose to participate.

(2) A local education provider that intends to use per-pupil intervention moneys to operate a summer school literacy program shall annually provide to the department information concerning the summer school literacy program the local education provider intends to operate. The local education provider shall ensure that the program:

(a) Serves only students enrolled in kindergarten or first, second, or third grade who have significant reading deficiencies, except as specifically allowed in subsection (1) of this section for students who are below grade level expectations in reading; and

(b) Uses scientifically based or evidence-based instructional programming in reading that:

(I) Has been proven to accelerate student progress in attaining reading competency;

(II) Provides explicit and systematic skill development in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(III) Includes scientifically based and reliable assessments; and

(IV) Provides initial and ongoing analysis of the student's progress in attaining reading competency.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 665, § 2, effective July 1.

**22-7-1213. Reporting requirements.** (1) Each local education provider shall annually report to the department information necessary to determine:

(a) The prevalence of significant reading deficiencies among students in kindergarten and first through third grades;

(b) Whether students who have significant reading deficiencies and who advance to the next grade level attain reading competency and, if so, at what grade level;

(c) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency within the school year during which they do not advance;

(d) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency at a lower grade level than students who do advance; and

(e) Whether students who have significant reading deficiencies continue to advance to the next grade level despite having a continuing significant reading deficiency and the degree to which local education providers are recommending that said students do not advance.

(2) Each local education provider that receives an early literacy grant pursuant to section 22-7-1211 or per-pupil intervention moneys shall, at the conclusion of each budget year in which it receives the grant or per-pupil intervention moneys, submit to the department information describing:

(a) The instructional programs, full-day kindergarten program, summer school literacy program, tutoring services, or other intervention services for which the local education provider used the grant or per-pupil intervention moneys;

(b) The number and grade levels of students who participated in each of the types of programs or services provided; and

(c) The progress made by participating students in achieving reading competency.

(3) (a) The department shall annually analyze the information received pursuant to subsection (1) of this section and make the determinations described in subsection (1) of this section.

(b) The department shall annually submit to the state board, the governor, the president of the senate, the speaker of the house of representatives, and the education committees of the house of representatives and the senate, or any successor committees, and shall post on the department web site a report that summarizes:

- (I) The information received pursuant to subsection (1) of this section and the determinations made by the department based on the information;
  - (II) The implementation of the early literacy grant program in the preceding budget year, including the number of grants, the local education providers that received grants, and the amount of each grant; and
  - (III) The information received by the department pursuant to subsection (2) of this section.
- (c) The department may provide the report described in paragraph (b) of this subsection (3) to committees of the general assembly in conjunction with the report required in section 2-7-203, C.R.S.
- (4) The information provided in the report described in this section is intended to assist the department, the state board, the governor, the general assembly, and the public in monitoring the implementation of and identifying the results achieved in implementing this part 12.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 666, § 2, effective July 1.

ARTICLE 8

Career Education

22-8-101 to 22-8-108. (Repealed)

**Source: L. 91:** Entire article repealed, p. 883, § 1, effective June 5.

**Editor’s note:** This article was added in 1975. For amendments to this article prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 9

Licensed Personnel Evaluations

22-9-101.	Short title.	22-9-105.7.	Great teachers and leaders fund - created - gifts, grants, and donations.
22-9-102.	Legislative declaration.		
22-9-103.	Definitions.		
22-9-104.	State board - powers and duties - rules.	22-9-106.	Local boards of education - duties - performance evaluation system - repeal.
22-9-105.	State licensed personnel performance evaluation council created - duties. (Repealed)	22-9-107.	School district personnel performance evaluation councils - duties.
22-9-105.5.	State council for educator effectiveness - legislative declaration - membership - duties - recommendations - rules.	22-9-108.	Evaluator training - universities and colleges - duties.
		22-9-109.	Exemption from public inspection.

**22-9-101. Short title.** This article shall be known and may be cited as the “Licensed Personnel Performance Evaluation Act”.

**Source: L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 2000:** Entire section amended, p. 1849, § 41, effective August 2.

**22-9-102. Legislative declaration.** (1) The general assembly hereby declares that:  
(a) A system to evaluate the effectiveness of licensed personnel is crucial to improving the quality of education in this state and declares that such a system shall be applicable to



all licensed personnel in the school districts and boards of cooperative services throughout the state; and

(b) The purposes of the evaluation shall be to:

- (I) Serve as a basis for the improvement of instruction;
- (II) Enhance the implementation of programs of curriculum;
- (III) Serve as a measurement of the professional growth and development of licensed personnel;
- (IV) Evaluate the level of performance based on the effectiveness of licensed personnel; and
- (V) Provide a basis for making decisions in the areas of hiring, compensation, promotion, assignment, professional development, earning and retaining nonprobationary status, dismissal, and nonrenewal of contract.

(2) The general assembly further declares that a professionally sound and credible system to evaluate the effectiveness of licensed personnel shall be designed with the involvement of licensed personnel and citizens of the school district or board of cooperative services.

(3) The general assembly further declares that the involvement and support of parents of children in public schools, acting as partners with teachers and public school administrators, are key to the educational progress of their children.

**Source:** **L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 92:** Entire section amended, p. 471, § 2, effective April 29. **L. 2000:** Entire section amended, p. 1849, § 42, effective August 2. **L. 2010:** Entire section amended, (SB 10-191), ch. 241, p. 1053, § 1, effective May 20.

**22-9-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of cooperative services" shall have the same meaning as provided in section 22-5-103 (2).

(1.1) "Council" means the state council for educator effectiveness established pursuant to section 22-9-105.5.

(1.4) "Department" means the department of education created pursuant to section 24-1-115, C.R.S.

(1.5) "Licensed personnel" means any persons employed to instruct students or to administer, direct, or supervise the instructional program in a school in the state who hold a valid license or authorization pursuant to the provisions of article 60.5 of this title.

(2) "Local board of education" or "local board" means the board of education of the school district.

(2.5) "Performance standards" means the levels of effectiveness established by rule of the state board pursuant to section 22-9-105.5 (10).

(2.6) "Principal" means a person who is employed as the chief executive officer or an assistant chief executive officer of a school in the state and who administers, directs, or supervises the education program in the school.

(2.7) "Principal development plan" means a written agreement developed by a principal and district administration that outlines the steps to be taken to improve the principal's effectiveness. The principal development plan shall include professional development opportunities.

(2.9) "Quality standards" means the elements and criteria established to measure effectiveness as established by rule of the state board pursuant to section 22-9-105.5 (10).

(3) "School district" means any school district organized and existing pursuant to law but does not include a junior college district.

(4) "State board" means the state board of education established by section 1 of article IX of the state constitution.

(5) "Teacher" means a person who holds an alternative, initial, or professional teacher license issued pursuant to the provisions of article 60.5 of this title and who is employed by a school district or a charter school in the state to instruct, direct, or supervise an education program.

(6) “Teacher development plan” means a written agreement mutually developed by a teacher and his or her principal that outlines the steps to be taken to improve the teacher’s effectiveness. The teacher development plan may include but need not be limited to consideration of induction and mentorship programs, use of highly effective teachers as instructional leaders or coaches, and appropriate professional development activities.

**Source:** **L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 92:** (1) amended and (1.5) added, p. 471, § 3, effective April 29. **L. 2000:** (1.5) amended, p. 1849, § 43, effective August 2. **L. 2010:** (1.1), (1.4), (2.5), (2.6), (2.7), (2.9), (5), and (6) added, (SB 10-191), ch. 241, p. 1054, § 2, effective May 20.

**Editor’s note:** Subsections (2.7), (2.9), (5), and (6) were numbered as subsections (3.5), (2.7), (6), and (5), respectively, but were renumbered on revision to place the definitions in alphabetical order.

**22-9-104. State board - powers and duties - rules.** (1) The state board shall promulgate guidelines relating to the planning, development, implementation, and assessment of a licensed personnel performance evaluation system that may be followed by each school district and board of cooperative services within the state. In promulgating said guidelines, the state board shall allow each school district and board of cooperative services to involve and consult with the licensed personnel and citizens of the school district or districts. Each school district and board of cooperative services shall have the flexibility needed to develop a system of personnel performance evaluation that is specifically designed to meet the individual needs of that school district and board of cooperative services.

(2) The state board shall:

(a) Provide training and leadership and give technical assistance to school districts and boards of cooperative services in the development of a licensed personnel performance evaluation system;

(b) Work and cooperate with the state’s universities and colleges that have teacher, principal, or administrator education programs to assure that principals and administrators having evaluation responsibilities will receive adequate education and training that meets the requirements specified in section 22-9-108 and will enable them to make thorough, credible, fair, and professional quality evaluations of all licensed personnel whom those principals or administrators may be responsible for evaluating;

(c) Pursuant to section 22-9-105.5, work with the council to promulgate rules concerning the planning, development, implementation, and assessment of a system to evaluate the effectiveness of licensed personnel;

(d) Review school district and board of cooperative services processes and procedures for licensed personnel performance evaluation systems to assure that such systems are professionally sound; will result in a fair, adequate, and credible evaluation; and will satisfy quality standards in a manner that is appropriate to the size, demographics, and location of the school district or board of cooperative services, and that is consistent with the purposes of this article; and

(e) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1532, § 17, effective May 21, 2009.)

(f) (I) On or before September 1, 2011, the state board, pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., shall promulgate rules with regard to the issues specified in section 22-9-105.5 (10) using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to one or more of the issues specified in section 22-9-105.5 (10), the state board, on or before September 1, 2011, shall promulgate rules concerning any issues in section 22-9-105.5 (10) that the council did not address. In promulgating rules pursuant to this paragraph (f), the state board shall conform to the timeline set forth in section 22-9-105.5.

(II) On or before February 15, 2012, the general assembly shall review the rules promulgated pursuant to subparagraph (I) of this paragraph (f), in a bill that is separate from the annual rule review bill introduced pursuant to section 24-4-103 (8) (d), C.R.S., and in



accordance with the criteria and procedures specified in section 24-4-103 (8) (a) and (8) (d), C.R.S.; except that the general assembly reserves the right to repeal individual rules in the rules promulgated by the state board. If one or more rules are not approved by the general assembly pursuant to this subparagraph (II), the state board shall promulgate emergency rules pursuant to section 24-4-103 (6), C.R.S., on such issue or issues and resubmit to the general assembly on or before May 1, 2012. The general assembly shall review the emergency rules promulgated according to the process outlined in this subparagraph (II).

**Source:** **L. 84:** Entire article added, p. 586, § 1, effective May 14. **L. 92:** (1), (2)(a), and (2)(d) amended, p. 472, § 4, effective April 29. **L. 98:** (2)(b) amended, p. 285, § 3, effective July 1. **L. 2000:** (1), (2)(a), (2)(b), and (2)(c) amended, p. 1850, § 44, effective August 2. **L. 2004:** (2)(d) amended, p. 1285, § 15, effective May 28. **L. 2009:** (2)(c), (2)(d), and (2)(e) amended, (SB 09-163), ch. 293, p. 1532, § 17, effective May 21. **L. 2010:** (2)(c) and (2)(d) amended and (2)(f) added, (SB 10-191), ch. 241, p. 1055, § 3, effective May 20.

### ANNOTATION

**Independent private cause of action not created by this act since this section provides a remedy to redress a statutory violation of**

**this section.** *Axtell v. Park Sch. Dist.* R-3, 962 P.2d 319 (Colo. App. 1998).

### **22-9-105. State licensed personnel performance evaluation council created - duties. (Repealed)**

**Source:** **L. 84:** Entire article added, p. 586, § 1, effective May 14. **L. 86:** (3) amended and (4) added, p. 411, § 16, effective March 26. **L. 90:** (3)(a)(II), (3)(b), and (4) repealed, p. 1099, § 64, effective May 31. **L. 92:** (3)(a)(I) amended, p. 472, § 5, effective April 29. **L. 2000:** (1), (2), and (3)(a)(I) amended, p. 1850, § 45, effective August 2. **L. 2010:** Entire section repealed, (SB 10-191), ch. 241, p. 1056, § 4, effective May 20.

### **22-9-105.5. State council for educator effectiveness - legislative declaration - membership - duties - recommendations - rules.** (1) The general assembly hereby finds and declares that:

(a) On January 13, 2010, the governor established by executive order the governor's council for educator effectiveness;

(b) The executive order charged the council with, among other duties, considering options and providing recommendations concerning educator effectiveness and developing recommendations for definitions of principal and teacher effectiveness; and

(c) The general assembly further finds and declares that it is in the best interests of the people of the state of Colorado to codify in statute the governor's council for educator effectiveness because of the significant additional statutory duties and responsibilities that the general assembly is assigning to said council.

(2) (a) There is hereby created in the office of the governor the state council for educator effectiveness, referred to in this article as the "council".

(b) The members of the governor's council for educator effectiveness, created by executive order B 2010-001, shall serve on the council, as appointed by the governor, and shall include:

(I) The commissioner of education, or his or her designee;

(II) The executive director of the department of higher education, or his or her designee;

(III) Four teachers, selected with the advice of state associations that represent educators;

(IV) Two public school administrators and one local school district superintendent, each selected with the advice of a state association that represents school executives;



(V) Two members of local school boards, selected with the advice of a state association that represents school boards;

(VI) One charter school administrator or teacher, selected with the advice of a state advocacy group for charter schools;

(VII) One parent of a public school student, selected with the advice of a state parent and teachers association;

(VIII) A current student or recent graduate of a Colorado public school, selected with the advice of a statewide student coalition; and

(IX) One at-large member with expertise in education policy.

(c) The purpose of the council shall be the same as that of the governor's council for educator effectiveness established by executive order, and shall be to consider options and make recommendations to the state board and the general assembly that seek to ensure that all licensed personnel are:

(I) Evaluated using multiple fair, transparent, timely, rigorous, and valid methods, at least fifty percent of which evaluation is determined by the academic growth of their students;

(II) Afforded a meaningful opportunity to improve their effectiveness; and

(III) Provided the means to share effective practices with other educators throughout the state.

(3) The council shall have the following duties:

(a) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every teacher is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this paragraph (a) shall require that at least fifty percent of the evaluation is determined by the academic growth of the teacher's students and that each teacher is provided with an opportunity to improve his or her effectiveness through a teacher development plan that links his or her evaluation and performance standards to professional development opportunities. The quality standards for teachers shall include measures of student longitudinal academic growth that are consistent with the measures set forth in section 22-11-204 (2) and may include interim assessment results or evidence of student work, provided that all are rigorous and comparable across classrooms and aligned with state model content standards and performance standards developed pursuant to article 7 of this title. For the purposes of quality standards, expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student as defined in section 22-7-604.5 (1.5). The quality standards for teachers shall be clear and relevant to the teacher's roles and responsibilities and shall have the goal of improving student academic growth. The council shall include in its recommendations a definition of effectiveness and its relation to quality standards. The definition of effectiveness shall include, but need not be limited to, criteria that will be used to differentiate between performance standards. The defined performance standards shall include, but need not be limited to, "highly effective", "effective", and "ineffective". The council shall consider whether additional performance standards should be established.

(a.5) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every principal is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations pursuant to this paragraph (a.5) shall require that every principal is provided with a principal development plan. In making its recommendations, the council shall recognize that not all teachers and principals require the same amount of supervision and evaluation. As part of its recommendations to the state board, the council shall develop a process to enable a local school district to differentiate teacher and principal evaluations as part of its performance evaluation system.

(b) On or before March 1, 2011, to provide the state board with recommendations concerning the implementation and testing of the new performance evaluation system that is based on quality standards and with recommendations for the subsequent statewide implementation of the new performance evaluation system. The recommendations made pursuant to this paragraph (b) shall conform to the timeline set forth in subsection (10) of this section.

(b.5) On or before March 1, 2011, to make recommendations to the state board concerning the involvement and support of parents of children in public schools, to the effect that parents should act as partners with teachers and public school administrators;

(c) On or before March 1, 2011, to provide the state board with recommendations that will ensure development of a set of guidelines for establishing performance standards for each category of licensed personnel to be evaluated pursuant to this article. The guidelines shall outline criteria to be applied in assigning educators to appropriate performance standards, which shall include measures of student longitudinal academic growth.

(d) On or before March 1, 2011, to develop and recommend to the state board statewide definitions of principal effectiveness and teacher effectiveness, each of which shall be centered on an educator's demonstrated ability to achieve and sustain adequate student growth and shall include a set of professional skills and competencies related to improved student outcomes;

(e) On or before March 1, 2011, to develop and recommend to the state board guidelines for adequate implementation of a high-quality educator evaluation system that shall address, at a minimum, the following issues:

(I) Ongoing training on the use of the system that is sufficient to ensure that all evaluators and educators have a full understanding of the evaluation system and its implementation. The training may include such activities as conducting joint training sessions for evaluators and educators.

(II) Evaluation results that are normed to ensure consistency and fairness;

(III) Evaluation rubrics and tools that are deemed fair, transparent, rigorous, and valid;

(IV) Evaluations that are conducted using sufficient time and frequency, at least annually, to gather sufficient data upon which to base the ratings contained in an evaluation;

(V) Provision of adequate training and collaborative time to ensure that educators fully understand and have the resources to respond to student academic growth data;

(VI) Student data that is monitored at least annually to ensure the correlation between student academic growth and outcomes with educator effectiveness ratings; and

(VII) A process by which a nonprobationary teacher may appeal his or her second consecutive performance rating of ineffective and submit such process by the first day of convening of the first regular session of the sixty-ninth general assembly to the education committees of the house of representatives and the senate, or any successor committees.

(f) On or before March 1, 2011, to adopt and recommend to the state board a rubric for identifying multiple additional quality standards, in addition to student academic growth, that are rigorous, transparent, valid, and fair;

(g) On or before March 1, 2011, to make recommendations to the state board for policy changes, as appropriate, that will support local school districts' use of evaluation data for decisions in areas such as compensation, promotion, retention, removal, and professional development;

(h) On or before March 1, 2011, to make recommendations to the state board for policy changes, as appropriate, that will ensure that the standards and criteria applicable to teacher and principal licensure and the accreditation of preparation programs are directly aligned with and support the preparation and licensure of effective educators;

(i) On or before July 1, 2013, and July 1 each year thereafter during the implementation of the performance evaluation system, the department shall report to the council the results of the implementation and testing of the performance evaluation system. Based on the results of the reports, the council may make additional recommendations to be incorporated in the following stage of implementation.

(j) The council shall develop an implementation plan for its recommendations and will identify tasks and the associated costs at the state and district levels. The recommendations shall include an implementation cost analysis, including assessment changes, assessment pilot study, staff training, research, data review, and any other tasks included in the council's recommendations. It is incumbent on the council to consult with the department and expert practitioners familiar with school finance and to report by March 1, 2011, on the costs to implement the council's recommendations.

(3.5) The recommendations made by the council to the state board pursuant to this section shall reflect a consensus vote. For any issue that the council was unable to reach a



consensus, the council shall provide to the state board the reasons it was unable to reach a consensus.

(4) The council's recommendations shall consist, at a minimum, of recommendations that are applicable to school principals and teachers.

(5) The council's recommendations may include changes to existing statutes or rules, if appropriate, as well as recommendations for local implementation.

(6) In making its recommendations, the council shall include the effect of district- and school-level conditions, as measured by the nine performance standards set forth in the comprehensive appraisal for the district improvement rubric and biannual teaching, empowering, leading, and learning initiative survey of school working conditions, as well as any additional methods of assessing such conditions identified by the council as valid, transparent, and reliable.

(7) The council may establish working groups, task forces, or other structures from within its membership or outside its membership as needed to address specific issues or to assist in its work.

(8) All recommendations made by the council pursuant to this section shall reflect a consensus of its members.

(9) Unless otherwise provided for, the office of the governor and the department shall provide the council with the support, information, data, analytical information, and administrative support necessary to do its work.

(10) (a) On or before September 1, 2011, the state board shall promulgate rules with regard to the issues specified in paragraphs (a) to (h) of subsection (3) of this section, using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to the issues specified in paragraphs (a) to (h) of subsection (3) of this section, the state board shall, on or before September 1, 2011, promulgate rules concerning any issues in said paragraphs (a) to (h) that the council did not address. In promulgating rules pursuant to this subsection (10), the state board shall conform to the following timeline:

(I) Beginning with the 2011-12 school year, the department shall work with school districts and boards of cooperative services to assist with the development of performance evaluation systems that are based on quality standards.

(II) On or before January 15, 2012, the state board shall provide to the general assembly the rules promulgated pursuant to this subsection (10). On or before February 15, 2012, the general assembly shall review and approve such rules as provided for in paragraph (b) of this subsection (10).

(III) Beginning with the 2012-13 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), the new performance evaluation system that is based on quality standards shall be implemented and tested as recommended by the council pursuant to paragraph (b) of subsection (3) of this section.

(IV) (A) Beginning with the 2013-14 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), and based on the results of the first level of implementation in the 2012-13 school year, the new performance evaluation system that is based on quality standards shall be implemented statewide in a manner as recommended by the council pursuant to paragraph (b) of subsection (3) of this section.

(B) During the 2013-14 school year, teachers shall be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall begin to be considered in the acquisition of probationary or nonprobationary status.

(V) (A) Beginning with the 2014-15 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), and based on the results of the first and second levels of implementation in the 2012-13 and 2013-14 school years, the new performance evaluation system that is based on quality standards shall be finalized on a statewide basis.

(B) During the 2014-15 school year, teachers shall continue to be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall be considered in the acquisition or loss of probationary or nonprobationary status.

(b) On or before February 15, 2012, the general assembly shall review the rules promulgated pursuant to paragraph (a) of this subsection (10) in a bill that is separate from



the annual rule review bill introduced pursuant to section 24-4-103 (8) (d), C.R.S., and in accordance with the criteria and procedures specified in section 24-4-103 (8) (a) and (8) (d), C.R.S.; except that the general assembly reserves the right to repeal individual rules contained in the rules promulgated by the state board. If one or more rules is not approved by the general assembly pursuant to this paragraph (b), the state board shall promulgate emergency rules pursuant to section 24-4-103 (6), C.R.S., on such issue or issues and resubmit to the general assembly on or before May 1, 2012. The general assembly shall review the emergency rules promulgated according to the process outlined in this paragraph (b).

(11) On or before November 1, 2011, the department shall create and make available to school districts and boards of cooperative services a resource bank that identifies assessments, processes, tools, and policies that a school district or board of cooperative services may use to develop an evaluation system that addresses the provisions of this section. The department shall include resources that are appropriate to school districts and boards of cooperative services of different sizes, demographics, and locations. The department shall update the resource bank at least annually to reflect new research and ongoing experience in Colorado.

(12) The department shall not be obligated to implement the provisions of this section until sufficient funds have been received and credited to the great teachers and leaders fund, created in section 22-9-105.7. The department is hereby authorized to hire any employees necessary to carry out the provisions of this section. Any new positions created pursuant to this section shall be subject to the availability of funding and shall be eliminated at such time as moneys are no longer available in the great teachers and leaders fund. All position descriptions and notice to hire for positions created pursuant to this section shall clearly state that such position is subject to available funding.

**Source: L. 2010:** Entire section added, (SB 10-191), ch. 241, p. 1056, § 5, effective May 20.

**22-9-105.7. Great teachers and leaders fund - created - gifts, grants, and donations.** (1) The department is authorized to seek, accept, and expend gifts, grants, and donations for the implementation of section 22-9-105.5; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this or any law of the state. The department shall transmit all moneys received to the state treasurer, who shall credit the same to the great teachers and leaders fund, which fund is hereby created and referred to in this section as the "fund". Moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with implementing section 22-9-105.5.

(2) Any moneys in the fund not expended for the purposes of section 22-9-105.5 may be invested by the state treasurer, as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) For fiscal years 2010-11 and 2011-12, if two hundred fifty thousand dollars is not credited to the fund through federal grants on or before September 30, 2010, the commissioner shall notify the state treasurer of the difference. As provided for in section 22-54-117 (1) (g), upon receipt of such notice, the state treasurer shall transfer to the fund the amount of the difference out of the contingency reserve fund, created pursuant to section 22-54-117 for the implementation of section 22-9-105.5. If there is an insufficient amount in the contingency reserve fund, the state treasurer shall transfer to the fund any remaining amount of the difference from the state education fund, created in section 17 (4) of article IX of the state constitution for the implementation of section 22-9-105.5.

(4) Nothing in this section shall be interpreted to require the department to solicit gifts, grants, or donations for the fund.

**Source: L. 2010:** Entire section added, (SB 10-191), ch. 241, p. 1063, § 6, effective May 20. **L. 2012:** (1) amended, (HB 12-1240), ch. 258, p. 1310, § 6, effective June 4.

**22-9-106. Local boards of education - duties - performance evaluation system - repeal.** (1) All school districts and boards of cooperative services that employ licensed personnel, as defined in section 22-9-103 (1.5), shall adopt a written system to evaluate the employment performance of school district and board of cooperative services licensed personnel, including all teachers, principals, and administrators, with the exception of licensed personnel employed by a board of cooperative services for a period of six weeks or less. In developing the licensed personnel performance evaluation system and any amendments thereto, the local board and board of cooperative services shall consult with administrators, principals, and teachers employed within the district or participating districts in a board of cooperative services, parents, and the school district licensed personnel performance evaluation council or the board of cooperative services personnel performance evaluation council created pursuant to section 22-9-107. The performance evaluation system shall address all of the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5, and shall contain, but need not be limited to, the following information:

(a) The title or position of the evaluator for each licensed personnel position to be evaluated;

(b) The licensed personnel positions to be evaluated, which shall include all licensed personnel, all part-time teachers as defined in section 22-63-103 (6), and all administrators and principals;

(c) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to ensure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn. At a minimum, the performance evaluation system shall ensure that:

(I) Probationary teachers receive at least two documented observations and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section each academic year. Probationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(II) Nonprobationary teachers receive at least one observation each year and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section every three years; except that, beginning with the 2012-13 academic year, nonprobationary teachers shall receive a written evaluation report pursuant to subsection (3) of this section each academic year according to the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5. Nonprobationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(III) Principals shall receive one evaluation that results in a written evaluation report pursuant to subsection (3) of this section each academic year according to the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5.

(IV) (Deleted by amendment, L. 2010, (SB 10-191), ch. 241, p. 1063, § 7, effective May 20, 2010.)

(d) The purposes of the evaluation, which shall include but need not be limited to:

(I) Providing a basis for the improvement of instruction;

(II) Enhancing the implementation of programs of curriculum;

(III) Providing the measurement of satisfactory performance for individual licensed personnel and serving as documentation for an unsatisfactory performance dismissal proceeding under article 63 of this title;

(IV) Serving as a measurement of the professional growth and development of licensed personnel; and

(V) (A) Measuring the level of performance of all licensed personnel within the school district or employed by a board of cooperative services. This sub-subparagraph (A) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementa-



tion to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(B) Measuring the level of effectiveness of all licensed personnel within the school district. This sub-subparagraph (B) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(e) (I) The standards set by the local board for satisfactory performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets such standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher performance shall be directly related to classroom instruction and shall include multiple measures of student performance. The performance evaluation system shall also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. This subparagraph (I) is repealed at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(II) The standards set by the local board for effective performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets such standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher effectiveness shall be directly related to classroom instruction and shall require that at least fifty percent of the evaluation is determined by the academic growth of the teacher's students. The district accountability committee shall provide input and recommendations concerning the assessment tools used to measure student academic growth as it relates to teacher evaluations. The standards shall include multiple measures of student performance in conjunction with student growth expectations. For the purposes of measuring effectiveness, expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student as defined in section 22-7-604.5 (1.5). The performance evaluation system shall also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. This subparagraph (II) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(f) The methods of evaluation, which shall include, but shall not be limited to, direct observations by the evaluator and a process of systematic data-gathering.

(2) In implementing such evaluation system and procedures, the school district or board of cooperative services shall conduct all evaluations so as to observe the legal and constitutional rights of licensed personnel, and no evaluation information shall be gathered by electronic devices without the consent of the licensed personnel. No informality in any evaluation or in the manner of making or recording any evaluation shall invalidate such evaluation.

(2.5) (a) The council shall actively participate with the local board or board of cooperative services in developing written standards for evaluation that clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each licensed person meets such standards pursuant to paragraph (e) of subsection (1) of



this section. This paragraph (a) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(b) The council shall actively participate with the local board in developing written standards for evaluation that clearly specify performance standards and the quality standards and the criteria to be used to determine whether the performance of each licensed person meets such standards pursuant to paragraph (e) of subsection (1) of this section. This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(3) An evaluation report shall be issued upon the completion of an evaluation made pursuant to this section and shall:

(a) Be in writing;

(b) Contain a written improvement plan, that shall be specific as to what improvements, if any, are needed in the performance of the licensed personnel and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the teacher's or the principal's license renewal process;

(c) Be specific as to the strengths and weaknesses in the performance of the individual being evaluated;

(d) Specifically identify when a direct observation was made;

(e) Identify data sources;

(f) Be discussed and be signed by the evaluator and the person being evaluated, each to receive a copy of the report. The signature on the report of any person shall not be construed to indicate agreement with the information contained in the report. If the person being evaluated disagrees with any of the conclusions or recommendations made in the evaluation report, the person may attach any written explanation or other relevant documentation that the person deems necessary.

(g) Be reviewed by a supervisor of the evaluator, whose signature shall also appear on said report.

(3.2) (a) In addition to the items specified in subsection (3) of this section, the evaluation of a teacher may include any peer, parent, or student input obtained from standardized surveys.

(b) In addition to the items specified in subsection (3) of this section, each principal's evaluation shall include input from the teachers employed in the principal's school and may include input from the students enrolled in the school and their parents. Each school district shall specify the manner in which input from teachers and from students and parents, if any, is collected but shall ensure that the information collected remains anonymous and confidential.

(3.3) Each principal or administrator who is responsible for evaluating licensed personnel shall keep records and documentation for each evaluation conducted. Each principal and administrator who is responsible for evaluating licensed personnel shall be evaluated as to how well he or she complies with this section and with the school district's evaluation system.

(3.5) (a) A teacher or principal whose performance is deemed to be unsatisfactory pursuant to paragraph (e) of subsection (1) of this section shall be given notice of deficiencies. A remediation plan to correct the deficiencies shall be developed by the district or the board of cooperative services and the teacher or principal and shall include professional development opportunities that are intended to help the teacher or principal to achieve an effective rating in his or her next performance evaluation. The teacher or principal shall be given a reasonable period of time to remediate the deficiencies and shall receive a statement of the resources and assistance available for the purposes of correcting

the performance or the deficiencies. This paragraph (a) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(b) (I) A teacher or principal whose performance is deemed to be ineffective pursuant to paragraph (e) of subsection (1) of this section shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring his or her performance, and identification of deficiencies.

(II) Each school district shall ensure that a nonprobationary teacher who objects to a rating of ineffectiveness has an opportunity to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining. At a minimum, the appeal process provided shall allow a nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent or his or her designee of the school district and shall place the burden upon the nonprobationary teacher to demonstrate that a rating of effectiveness was appropriate. If there is no collective bargaining agreement in place, following the ruling of the superintendent or his or her designee, the appealing teacher may request a review by a mutually agreed-upon third party. The decision of the third party shall review whether the decision was arbitrary or capricious and shall be binding on both parties. The cost of any such review shall be borne equally by both parties. Where a collective bargaining agreement is in place, either party may choose to opt into this process. The superintendent's designee shall not be the principal who conducted the evaluation. For a nonprobationary teacher, a remediation plan to correct the deficiencies shall be developed by the district or the board of cooperative services and shall include professional development opportunities that are intended to help the nonprobationary teacher to achieve an effective rating in his or her next performance evaluation. The nonprobationary teacher shall be given a reasonable period of time to remediate the deficiencies and shall receive a statement of the resources and assistance available for the purpose of improving effectiveness.

(III) This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(IV) Subparagraph (II) of this paragraph (b) is repealed, effective February 15, 2013.

(4) (a) Except as provided in paragraph (b) of this subsection (4), no person shall be responsible for the evaluation of licensed personnel unless the person has a principal or administrator license issued pursuant to article 60.5 of this title or is a designee of a person with a principal or administrator license and has received education and training in evaluation skills approved by the department of education that will enable him or her to make fair, professional, and credible evaluations of the personnel whom he or she is responsible for evaluating. No person shall be issued a principal or administrator license or have a principal or administrator license renewed unless the state board determines that such person has received education and training approved by the department of education.

(b) A local board of education shall have the authority to evaluate the performance of the superintendent of the school district. The responsibility for conducting the performance evaluation of the superintendent shall rest exclusively with the local board of education.

(4.5) (a) Any person whose performance evaluation includes a remediation plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the person is performing satisfactorily, no further action shall be taken concerning the original performance evaluation. If the evaluation shows the person is still not performing satisfactorily, the evaluator shall either make additional recommendations for improvement or may recommend the dismissal of the person, which dismissal shall be in accordance with the provisions of article 63 of this title if the person is a teacher. This paragraph (a) is repealed, effective at such time as the



performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(b) Any person whose performance evaluation includes a remediation plan shall be given an opportunity to improve his or her effectiveness through the implementation of the plan. If the next performance evaluation shows that the person is performing effectively, no further action shall be taken concerning the original performance evaluation. If the evaluation shows the person is still not performing effectively, he or she shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring the person's performance, and identification of deficiencies. Each school district shall ensure that a nonprobationary teacher who objects to a rating of ineffectiveness has an opportunity to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining. At a minimum, the appeal process provided shall allow a nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent of the school district and shall place the burden upon the nonprobationary teacher to demonstrate that a rating of effectiveness was appropriate. The appeal process shall take no longer than ninety days, and the nonprobationary teacher shall not be subject to a possible loss of nonprobationary status until after a final determination regarding the rating of ineffectiveness is made. For a person who receives a performance rating of ineffective, the evaluator shall either make additional recommendations for improvement or may recommend the dismissal of the person, which dismissal shall be in accordance with the provisions of article 63 of this title if the person is a teacher. This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(5) The school district or board of cooperative services licensed personnel performance evaluation system, processes, and procedures may be in accord with the guidelines adopted by the state board. The system shall be developed after consultation with the school district or board of cooperative services licensed personnel performance evaluation council created pursuant to section 22-9-107 with regard to the planning, development, adoption, and implementation of such system, and said council shall conduct a continuous evaluation of said system.

(6) The state board shall approve any school district's or board of cooperative services' existing licensed personnel performance evaluation system and related processes and procedures if such system, processes, and procedures are consistent with this article.

(7) Every principal shall be evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this subsection (7) shall require that at least fifty percent of the evaluation is determined by the academic growth of the students enrolled in the principal's school. For principals, the quality standards shall include, but need not be limited to:

(a) Achievement and academic growth for those students enrolled in the principal's school, as measured by the Colorado growth model set forth in section 22-11-202;

(b) The number and percentage of licensed personnel in the principal's school who are rated as effective or highly effective; and

(c) The number and percentage of licensed personnel in the principal's school who are rated as ineffective but are improving in effectiveness.

(8) On or before August 1, 2014, each local board of education shall develop, in collaboration with a local teachers association or, if none exists, with teachers from the district, an incentive system, the purpose of which shall be to encourage effective teachers in high-performing schools to move to jobs in schools that have low performance ratings.

**Source:** L. 84: Entire article added, p. 587, § 1, effective May 14. L. 90: IP(1), (1)(b) to (1)(e), (3)(b), and (4) amended and (2.5), (3.5), and (4.5) added, p. 1128, § 3, effective



May 31; (4.5) amended, p. 1846, § 38, effective July 1. **L. 92:** IP(1), (1)(d), (2), (2.5), (3.5), (5), and (6) amended, p. 472, § 6, effective April 29. **L. 98:** (1), (2.5), (3), (4), and (4.5) amended and (3.2) and (3.3) added, p. 286, §§ 4, 5, effective July 1. **L. 2000:** IP(1), (1)(a), (1)(b), (1)(d)(III), (1)(d)(IV), (1)(d)(V), (1)(e), (2), (2.5), (3)(b), (3.3), (4), and (5) amended, p. 1851, § 46, effective August 2. **L. 2001:** (4) amended, p. 52, § 1, effective August 8. **L. 2004:** (6) amended, p. 1285, § 16, effective May 28. **L. 2006:** (1)(c), (3)(b), (3.2), (3.5), and (4.5) amended, p. 1241, § 6, effective May 26. **L. 2010:** IP(1), (1)(c), (1)(d)(V), (1)(e), (2.5), (3.3), (3.5), (4)(a), and (4.5) amended and (7) and (8) added, (SB 10-191), ch. 241, p. 1063, § 7, effective May 20.

**Editor's note:** (1) (a) As of the date of publication, the revisor of statutes has not received the notices referred to in subsections (1)(d)(V)(A), (1)(e)(I), (2.5)(a), (3.5)(a), and (4.5)(a) that would cause the repeal of those provisions.

(b) As of the date of publication, the revisor of statutes has not received the notices referred to in subsections (1)(d)(V)(B), (1)(e)(II), (2.5)(b), (3.5)(b), and (4.5)(b) that would allow those provisions to become effective.

### ANNOTATION

**Independent private cause of action not created by this act since § 22-9-104 provides a remedy to redress a statutory violation of this section.** *Axtell v. Park Sch. Dist.* R-3, 962 P.2d 319 (Colo. App. 1998).

**Nor does act create a contract by law.** *Axtell v. Park Sch. Dist.* R-3, 962 P.2d 319 (Colo. App. 1998).

**No implied contractual right under school district's evaluation policy** if there is a clear disclaimer of any contractual rights in the employee manual or handbook. *Axtell v. Park Sch. Dist.* R-3, 962 P.2d 319 (Colo. App. 1998).

#### **22-9-107. School district personnel performance evaluation councils - duties.**

(1) Every school district and board of cooperative services in the state subject to the provisions of this article shall have an advisory school district personnel performance evaluation council or advisory board of cooperative services personnel performance evaluation council, which shall, at a minimum, consist of the following members to be appointed by the local board of education or board of cooperative services:

(a) In the case of a school district, one teacher, one administrator, and one principal from the school district; one resident from the school district who is a parent of a child attending a school within said district; and one resident of the school district who is not a parent with a child in the district; or

(b) In the case of a board of cooperative services, one teacher, one administrator, and one principal representative of the school district or districts participating in the board of cooperative services; one person employed by the board of cooperative services who is defined as licensed personnel pursuant to section 22-9-103 (1.5); one resident who is a parent of a child attending a school within said district or districts; and one resident representative of the school district or districts participating in the board of cooperative services who is not a parent with a child in said district or districts.

(2) Said council shall consult with the local board or board of cooperative services as to the fairness, effectiveness, credibility, and professional quality of the licensed personnel performance evaluation system and its processes and procedures and shall conduct a continuous evaluation of said system.

(3) The council for a school district may be composed of any other school district committee having proper membership, as defined in subsection (1) of this section.

**Source:** **L. 84:** Entire article added, p. 588, § 1, effective May 14. **L. 92:** Entire section amended, p. 474, § 7, effective April 29. **L. 2000:** (1)(b) and (2) amended, p. 1853, § 47, effective August 2.

**22-9-108. Evaluator training - universities and colleges - duties.** (1) (a) The general assembly finds that credible, fair, and professional evaluations of licensed personnel

depend upon high quality, effective training for principals and administrators that is consistent across the state. Therefore, the state board, in evaluating and approving educator preparation programs pursuant to section 22-2-109, and in approving evaluator training programs provided by a school district or a board of cooperative services, shall ensure that said programs meet the requirements specified in this section.

(b) Every university and college within the state that has a principal or administrator preparation program shall ensure that the program includes training in the evaluation of licensed personnel that meets the requirements specified in this section. In addition, the university or college shall cooperate with the state board in connection with the state board's duties under sections 22-9-104 and 22-2-109.

(c) Every school district and board of cooperative services that provides training in the evaluation of licensed personnel shall ensure that such training meets the requirements specified in this section.

(2) Each university or college that offers a principal or administrator preparation program or school district or board of cooperative services that provides evaluator training shall structure the evaluator training program on a standards-based skill outcome model that takes into account research concerning evaluation of licensed personnel. At a minimum, each evaluator training program shall include standards-based performance assessments of each participant, demonstrated competency, and certification by the university, college, school district, or board of cooperative services of the skills mastered by each participant. The university, college, school district, or board of cooperative services shall work collaboratively with principals and administrators who are responsible for evaluating licensed personnel to develop research-based standards for assessing and certifying evaluator skills. The university, college, school district, or board of cooperative services shall regularly review both the model for the evaluator training program and the program performance standards to ensure that they continue to reflect research concerning evaluation of licensed personnel.

(3) At a minimum, each evaluator training program shall include training in the following areas:

- (a) Teaching and learning styles;
- (b) Student performance and student assessment;
- (c) Data collection and documentation; and
- (d) School district standards and state mandates.

**Source:** L. 84: Entire article added, p. 589, § 1, effective May 14. L. 98: Entire section R&RE, p. 284, § 1, effective July 1. L. 2000: (1) and (2) amended, p. 1853, § 48, effective August 2.

**22-9-109. Exemption from public inspection.** Notwithstanding the provisions of section 24-72-204 (3), C.R.S., the evaluation report and all public records as defined in section 24-72-202 (6), C.R.S., used in preparing the evaluation report shall be confidential and shall be available only to the licensed person being evaluated, to the duly elected and appointed public officials who supervise his work, and to a hearing officer conducting a hearing pursuant to the provisions of section 22-63-302 or the court of appeals reviewing a decision of the board of education pursuant to the provisions of section 22-63-302; except that the evaluation report of the chief executive officer of any school district, as it relates to the performance of the chief executive officer in fulfilling the adopted school district objectives, fiscal management of the district, district planning responsibilities, and supervision and evaluation of district personnel, shall be open for inspection by any person at reasonable times.

**Source:** L. 86, 2nd Ex. Sess.: Entire section added, p. 58, § 1, effective August 21. L. 90: Entire section amended, p. 1129, § 4, effective July 1. L. 2000: Entire section amended, p. 1854, § 49, effective August 2.



ARTICLE 9.5

Principal Development Scholarship Program

**Cross references:** For the legislative declaration contained in the 2006 act enacting this article, see section 7 of chapter 270, Session Laws of Colorado 2006.

22-9.5-101.	Definitions.	22-9.5-103.	Scholarship program - rules -
22-9.5-102.	Principal development schol-		criteria for awards.
	arship program - creation -	22-9.5-104.	Principal development schol-
	eligibility.		arship fund - created.

- 22-9.5-101. Definitions.** As used in this article, unless the context otherwise requires:
- (1) “Scholarship program” means the principal development scholarship program created in section 22-9.5-102.
- (2) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.

**22-9.5-102. Principal development scholarship program - creation - eligibility.** There is hereby created in the department of education the principal development scholarship program. Subject to available appropriations, the scholarship program shall award stipends to assist persons employed as principals in offsetting the costs incurred in obtaining on-going professional development. The state board shall award stipends on a need basis, based on the criteria specified in section 22-9.5-103. The scholarships shall be paid from any moneys available in the principal development scholarship fund created in section 22-9.5-104.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.

- 22-9.5-103. Scholarship program - rules - criteria for awards.** (1) The state board, by rule, shall establish the procedures by which a person may apply for a stipend through the scholarship program. At a minimum, the rules shall specify the information a person shall submit and the deadlines for submitting the application.
- (2) The state board shall award stipends to applying persons based on the following criteria:
- (a) A person’s demonstrated degree of financial need, based on the resources of the employing school district and the applying person, and the cost of the professional development program for which the person requests a stipend;
- (b) A person’s demonstrated degree of professional need, based on the applying person’s performance evaluations conducted pursuant to the district’s licensed personnel performance evaluation system;
- (c) The quality of the professional development program or activity for which the person requests a stipend; and
- (d) Any other criteria adopted by rule of the state board to identify persons in the greatest need of assistance in obtaining high-quality professional development programs and activities to improve their performance as principals.
- (3) The state board shall set the amount of each stipend awarded based on the person’s degree of need, the cost of the professional development program or activity for which the person requests a stipend, the amount available in the principal development scholarship fund for the applicable budget year, and the anticipated number of persons who will apply to the scholarship program in the course of the applicable budget year.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.



- 22-9.5-104. Principal development scholarship fund - created.** (1) There is hereby created in the state treasury the principal development scholarship fund, referred to in this section as the “fund”, that shall consist of any moneys that may be credited to the fund pursuant to subsection (2) of this section. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.
- (2) The department is authorized to accept gifts, grants, or donations from any public or private entity to carry out the purposes of this article, subject to the terms and conditions under which given; except that the department shall not accept a gift, grant, or donation if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. The department shall transmit to the state treasurer any gifts, grants, or donations received pursuant to this subsection (2), and the state treasurer shall credit the same to the fund.
- (3) The department may expend up to one percent of the moneys annually appropriated from the fund to offset the costs incurred in implementing this article.

**Source: L. 2006:** Entire article added, p. 1244, § 8, effective May 26.

ARTICLE 9.7

Early Childhood Educator Development  
Scholarship Program

22-9.7-101.	Early childhood educator development scholarship program - creation - eligibility.	22-9.7-103.	Early childhood educator development scholarship fund - created.
22-9.7-102.	Scholarship program - rules - criteria for awards.	22-9.7-104.	Repeal of article.

**22-9.7-101. Early childhood educator development scholarship program - creation - eligibility.** Subject to the receipt of sufficient moneys pursuant to section 22-9.7-103, there is hereby created in the department of education, referred to in this article as the “department”, the early childhood educator development scholarship program, referred to in this article as the “scholarship program”, to award stipends to assist persons employed in early childhood education in offsetting the costs incurred in obtaining an associate of arts degree in early childhood education. The department shall award stipends on a need basis, based on the criteria specified in section 22-9.7-102. The stipends shall be awarded on a yearly basis, and recipients shall reapply each year that they are enrolled in the associate of arts degree program. The scholarships shall be paid from any moneys available in the early childhood educator development scholarship fund created in section 22-9.7-103.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 388, § 1, effective August 11. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1160, § 43, effective August 10.

- 22-9.7-102. Scholarship program - rules - criteria for awards.** (1) The department, by rule, shall collaborate with the department of human services, the Colorado community college system, and the office of information technology, to establish the procedures by which a person may apply for a stipend through the scholarship program. At a minimum, the rules shall specify the information a person shall submit and the deadlines for submitting the application.
- (2) The department shall award stipends to an applicant based on the following criteria:

(a) The applicant's demonstrated degree of financial need, based on the resources of the applying person and the cost of the associate of arts degree program for which the applicant requests a stipend;

(b) The applicant's demonstrated degree of professional need;

(c) The quality of the associate of arts degree program for which the applicant requests a stipend;

(d) The applicant's commitment to teach in early childhood education for at least two years after receiving the associate of arts degree;

(e) The applicant's current employment in an early childhood capacity; and

(f) Any other criteria adopted by rule of the department to identify applicants in the greatest need of assistance in obtaining a regionally accredited associate of arts degree to improve their performance as early childhood educators.

(3) The department shall set the amount of each stipend awarded based on the applicant's degree of need, the cost of the associate of arts degree program for which the applicant requests a stipend, the amount available in the early childhood educator development scholarship fund for the applicable budget year, and the anticipated number of persons who will apply to the scholarship program in the course of the applicable budget year.

(4) The department shall assign an educator identifier pursuant to section 22-68.5-102 to each recipient of a stipend pursuant to this section.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 388, § 1, effective August 11.

**22-9.7-103. Early childhood educator development scholarship fund - created.**

(1) It is the intent of the general assembly that any costs associated with implementing this article shall be paid for by the receipt of any available federal moneys or other gifts, grants, or donations and that no additional general fund moneys be appropriated for the implementation of the grant program.

(2) The department is authorized to seek, accept, and expend any federal moneys or other gifts, grants, or donations for the purposes of this article. If necessary, any gifts, grants, or donations shall be transmitted to the state treasurer who shall credit them to the early childhood educator development scholarship fund, which fund is hereby created and referred to in this section as the "fund".

(3) The moneys in the fund shall be continuously appropriated to the department for the direct and indirect costs associated with implementing this article. Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(4) The department shall retain only the actual amount of direct and indirect costs necessary to implement this article.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 389, § 1, effective August 11.

**22-9.7-104. Repeal of article.** (1) (a) On or before July 1, 2011, or July 1 of any year thereafter, the executive director of the department shall notify the revisor of statutes in writing if federal moneys are not received and allocated to the department or if gifts, grants, and donations are not received by the department to provide for the award of grants pursuant to this article.

(b) If the revisor of statutes does not receive notice pursuant to paragraph (a) of this subsection (1), on July 1, 2011, or on July 1 of any year thereafter, the executive director of the department shall notify the revisor of statutes in writing if federal moneys or gifts,

grants, or donations are not available to continue to provide for the award of grants pursuant to this article.

(2) This article is repealed, effective the July 1 following the receipt of the notice by the revisor of statutes pursuant to paragraph (a) or (b) of subsection (1) of this section.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 390, § 1, effective August 11.

**Editor’s note:** As of the date of publications, the revisor of statutes has not received the notices referred to in subsection (1)(a) or (1)(b) that would cause the repeal of this article.

ARTICLE 10

Adult Literacy

22-10-101 to 22-10-107. (Repealed)

**Editor’s note:** (1) This article was added in 1989. For amendments to this article prior to its repeal in 1994, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-10-107 provided for the repeal of this article, effective June 30, 1994. (See L. 89, p. 952.)

ARTICLE 11

Education Accountability

**Editor’s note:** This article was added in 1998. This article was repealed and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

PART 1			tricts and institute - contracts - rules.
GENERAL PROVISIONS		22-11-207.	Accreditation categories - criteria - rules.
22-11-101.	Short title.	22-11-208.	Accreditation - annual review - supports and interventions - rules.
22-11-102.	Legislative declaration.		
22-11-103.	Definitions.	22-11-209.	Removal of accreditation - recommendation - review - appeal - rules.
22-11-104.	Rules.		
22-11-105.	Funding.	22-11-210.	Public schools - annual review - plans - supports and interventions - rules.
PART 2			
STATE ACCOUNTABILITY			
22-11-201.	State public education system - annual performance review - targets for improvement.		PART 3
22-11-202.	Colorado growth model - technical advisory panel - rules.		SCHOOL DISTRICT AND INSTITUTE ACCOUNTABILITY
22-11-203.	Student longitudinal academic growth - calculation - data - research.	22-11-301.	School district accountability committees - creation - membership.
22-11-204.	Performance indicators - measures.	22-11-302.	School district accountability committees - powers and duties.
22-11-205.	State review panel - creation.	22-11-303.	Accredited or accredited with
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	distinction - performance plan - school district or institute - contents - adoption.	22-11-405.	School priority improvement plan - contents.
22-11-304.	Accredited with improvement plan - school district or institute - plan contents - adoption.	22-11-406.	School turnaround plan - contents.
PART 5			
PERFORMANCE REPORTING			
22-11-305.	Accredited with priority improvement plan - school district or institute - plan contents - adoption.	22-11-501.	State data reporting system.
		22-11-502.	Data portal - creation - contents.
22-11-306.	Accredited with turnaround plan - school district or institute - plan content - adoption.	22-11-503.	Performance reports - contents - rules.
22-11-307.	Accreditation of public schools.	22-11-504.	School district and institute reporting requirements.

PART 6

PART 4		SCHOOL AWARDS PROGRAM	
SCHOOL ACCOUNTABILITY		22-11-601.	Colorado school awards program - created - rules.
22-11-401.	School accountability committee - creation - qualifications - elections.	22-11-602.	Colorado school awards program - John Irwin schools of excellence awards - rules.
22-11-402.	School accountability committee - powers and duties - meetings.	22-11-603.	Governor's distinguished improvement awards - rules.
22-11-403.	School performance plan - contents.	22-11-603.5.	Centers of excellence awards.
		22-11-604.	Colorado school awards program - distribution of award.
22-11-404.	School improvement plan - contents.	22-11-605.	School awards program fund - creation - contributions.

PART 1

GENERAL PROVISIONS

**22-11-101. Short title.** This article shall be known and may be cited as the “Education Accountability Act of 2009”.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1459, § 1, effective May 21.

**22-11-102. Legislative declaration.** (1) The general assembly hereby finds that an effective system of statewide education accountability is one that:

- (a) Focuses the attention of educators, parents, students, and other members of the community on maximizing every student’s progress toward postsecondary and workforce readiness and postgraduation success;
- (b) Reports information concerning performance at the state level, school district or institute level, and individual public school level that is perceived by educators, parents, and students as fair, balanced, cumulative, credible, and useful;
- (c) Provides more academic performance information, and fewer labels, to move from a punitive accountability system to one that is positive and focused on learning and achieving high levels of academic performance; and
- (d) Holds the state, school districts, the institute, and individual public schools accountable for performance on the same set of indicators and related measures statewide, ensures that those indicators and measures are aligned through a single accountability system, to the extent possible, that objectively evaluates the performance of the thorough and uniform statewide system of public education for all groups of students at the state, school district

or institute, and individual public school levels, and, as appropriate, rewards success and provides support for improvement at each level.

(2) The general assembly further finds that an effective education accountability system will be built around implementation of the Colorado growth model that:

(a) Uses a common measure to describe in plain language how much academic growth each student needs to make and how much growth the student actually makes in one year toward proficiency on state content standards;

(b) Incorporates a complete history of each student's assessment scores in calculating the student's needed and achieved academic growth;

(c) Focuses the attention of educators, parents, and students on maximizing students' academic growth and achievement over time and reveals where, and among which groups of students, the strongest academic growth is occurring and where it is not;

(d) Assists the state in closing the achievement gaps that plague the public education system by spotlighting the gaps in students' academic growth rates and ensuring that educators have the data necessary to assist the neediest students in making more than a year's academic growth in a year's time so that these students can catch up to the academic performance levels of their peers; and

(e) Provides data that are recognized by educators, parents, students, the higher education community, the business community, and other stakeholders as fair, balanced, objective, and transparent to support individual school, school district, institute, state, and federal education accountability purposes.

(3) The general assembly concludes, therefore, that it is in the best interests of the state to adopt an aligned education accountability system for public education in this state that:

(a) Holds the state, school districts, the institute, and public schools accountable on statewide performance indicators supported by consistent, objective measures;

(b) Incorporates input from parents, educators, administrators, and the community in establishing clearly defined statewide academic performance objectives;

(c) Reports performance in clear, readily understandable terms;

(d) Is adaptable to accommodate and include additional data that become available as the state implements the "Preschool to Postsecondary Education Alignment Act", part 10 of article 7 of this title, including but not limited to data concerning school readiness and postsecondary success;

(e) Recognizes and rewards areas of success, while also identifying and compelling effective change for areas in need of improvement; and

(f) Ensures the availability of technical assistance, services, and support for public schools, school districts, and the institute to improve students' academic performance.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1459, § 1, effective May 21.

**22-11-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Accreditation" means certification by the state board that a school district and the public schools of the school district, or the institute and the institute charter schools, meet the requirements established by this article and the rules promulgated pursuant to this article. "Accreditation" includes the process for accrediting school districts and the institute and reviewing the performance of public schools as provided in part 2 of this article and the rules promulgated pursuant to this article.

(2) "Accreditation contract" means:

(a) The contract between the state board and a school district, as described in section 22-11-206, that includes, but is not limited to, the school district's obligation to manage the accreditation of the public schools of the school district consistent with the provisions of this article; or

(b) The contract between the state board and the institute, as described in section 22-11-206, that includes, but is not limited to, the institute's obligation to manage the accreditation of the institute charter schools consistent with the provisions of this article.

(3) "Achievement and growth gaps" means differences among student groups in the levels of academic achievement attained by the student groups on the statewide assessments



and differences among student groups in the levels of academic growth attained by the student groups.

(4) "Achievement level" means the level of proficiency a student demonstrates on a statewide assessment.

(5) "Alternative education campus" means a public school that receives a designation pursuant to section 22-7-604.5.

(6) "Basic skills courses" has the same meaning as provided in section 23-1-113 (1)(b), C.R.S.

(7) "Catch-up growth" means, for a student who scores at the achievement level of unsatisfactory or partially proficient on statewide assessments, the amount of academic growth the student must attain to score at the proficient achievement level on statewide assessments within three years or by tenth grade, whichever is sooner.

(8) "Colorado growth model" means a scientifically rigorous statistical model that the department uses to calculate students' annual academic growth in the subjects included in the statewide assessments based on students' scores on the annual statewide assessments, which model is adopted by the state board pursuant to section 22-11-202.

(9) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(10) "Data portal" means the internet-based electronic data delivery system developed and maintained by the department pursuant to section 22-11-502.

(11) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(12) "District charter school" means a charter school that is authorized by a school district pursuant to the provisions of part 1 of article 30.5 of this title.

(13) "District public school" means a public school of a school district, including but not limited to a district charter school.

(14) "Improvement plan" means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-304, in which case it may also be referred to more specifically as a "district improvement plan";

(b) The plan described in and adopted by the institute pursuant to section 22-11-304, in which case it may also be referred to more specifically as an "institute improvement plan"; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-404, in which case it may also be referred to more specifically as a "school improvement plan".

(15) "Institute" means the state charter school institute created pursuant to section 22-30.5-503.

(16) "Institute board" means the governing board of the state charter school institute appointed pursuant to section 22-30.5-505 (2).

(17) "Institute charter school" means a charter school that is authorized by the institute pursuant to the provisions of part 5 of article 30.5 of this title.

(18) "Keep-up growth" means, for a student who scores at the achievement level of proficient or advanced on statewide assessments, the amount of academic growth the student must attain to score at the proficient achievement level or higher on statewide assessments for the succeeding three years or until tenth grade, whichever is sooner.

(19) "Local school board" means the board of education of a school district. "Local school board" also includes the governing board of a board of cooperative services created pursuant to article 5 of this title if the board of cooperative services is operating a public school.

(20) "Measure" means a method of assessing or a means to assess the level of attainment on a performance indicator.

(21) "Median student growth" means, in a ranking of individual student growth scores from highest to lowest, the middle student growth score attained.

(22) "Move-up growth" means, for a student who scores at the achievement level of proficient on statewide assessments, the amount of academic growth the student must attain to score at the advanced performance level on statewide assessments within three years or by tenth grade, whichever is sooner.



(23) “Performance indicators” means the indicators specified in section 22-11-204 for measuring the performance of the state public education system, including each public school, each school district, the institute, and the state as a whole.

(24) “Performance plan” means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-303, in which case it may also be referred to more specifically as a “district performance plan”;

(b) The plan described in and adopted by the institute pursuant to section 22-11-303, in which case it may also be referred to more specifically as an “institute performance plan”; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-403, in which case it may also be referred to more specifically as a “school performance plan”.

(25) “Postsecondary and workforce readiness” shall have the same meaning as provided in section 22-7-1003 (15).

(26) “Postsecondary and workforce readiness assessment” shall have the same meaning as provided in section 22-7-1003 (16).

(27) “Priority improvement plan” means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-305, in which case it may also be referred to more specifically as a “district priority improvement plan”;

(b) The plan described in and adopted by the institute pursuant to section 22-11-305, in which case it may also be referred to more specifically as an “institute priority improvement plan”; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-405, in which case it may also be referred to more specifically as a “school priority improvement plan”.

(28) “Public school” shall have the same meaning as provided in section 22-1-101 and includes, but is not limited to, a district charter school, an institute charter school, an on-line program, as defined in section 22-30.7-102 (9), and an on-line school, as defined in section 22-30.7-102 (9.5).

(29) “School district” means a school district authorized by section 15 of article IX of the state constitution and organized pursuant to article 30 of this title. “School district” also includes a board of cooperative services created pursuant to article 5 of this title if it is operating a public school.

(30) “School readiness” shall have the same meaning as provided in section 22-7-1003 (21).

(31) “State board” means the state board of education established pursuant to section 1 of article IX of the state constitution.

(32) “State review panel” means the panel of education experts appointed by the commissioner pursuant to section 22-11-205 to assist the department and the state board in implementing the provisions of this article.

(33) “Statewide assessments” means the assessments administered pursuant to the Colorado student assessment program created in section 22-7-409 or as part of the system of assessments adopted by the state board pursuant to section 22-7-1006.

(34) “Student groups” means the grouping of students based on sex, socioeconomic status, race and ethnicity, disability, English language proficiency, and gifted and talented status, as said groups are described by state board rule and federal requirements, and any additional student groups that the state board may describe by rule to align with changes to federal requirements or to provide additional data for analysis of student learning.

(34.3) “Student populations that are significantly represented within the school” means student populations that each constitute at least ten percent of the total population of students in the school, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

(34.5) “Student populations that are significantly represented within the school district” means student populations that each constitute at least ten percent of the total population of students in the school district, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

(35) “Target” means a specific, quantifiable outcome that establishes the desired level of attainment on a measure.

(36) “Technical advisory panel” means the panel of state and national experts on the longitudinal measurement of academic growth for accountability purposes appointed by the commissioner pursuant to section 22-11-202 (2).

(37) “Turnaround plan” means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-306, in which case it may also be referred to more specifically as a “district turnaround plan”;

(b) The plan described in and adopted by the institute pursuant to section 22-11-306, in which case it may also be referred to more specifically as an “institute turnaround plan”; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-406, in which case it may also be referred to more specifically as a “school turnaround plan”.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1461, § 1, effective May 21. **L. 2010:** (28) amended, (HB 10-1422), ch. 419, p. 2076, § 39, effective August 11. **L. 2012:** (34.3) and (34.5) added, (SB 12-160), ch. 204, p. 813, § 3, effective May 24; (28) amended, (HB 12-1240), ch. 258, p. 1314, § 22, effective June 4; (6) amended, (HB 12-1155), ch. 255, p. 1280, § 5, effective August 8.

**22-11-104. Rules.** The state board shall promulgate rules pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., as required in this article and may promulgate such additional rules as it finds necessary for the implementation of this article, including but not limited to rules establishing a numbering system to uniquely identify individual students, including students enrolled in the Colorado preschool program created pursuant to section 22-28-104.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1465, § 1, effective May 21; (2)(e) amended, (HB 09-1319), ch. 286, p. 1317, § 4, effective May 21.

**Editor’s note:** Subsection (2)(e) was amended in House Bill 09-1319, effective May 21, 2009. However, those amendments were superseded by the repeal and reenactment of this article by Senate Bill 09-163, effective May 21, 2009.

**22-11-105. Funding.** (1) The department is authorized to seek, accept, and expend public and private gifts, grants, and donations for the implementation of this article; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state.

(2) The general assembly hereby declares that, for purposes of section 17 of article IX of the state constitution, implementation of an aligned education accountability system for public education pursuant to this section is an important element in implementing accountable education reform and accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) The general assembly anticipates that the department may receive significant amounts of federal moneys that may appropriately be used to implement this article and strongly encourages the department to apply said federal moneys to the greatest extent possible in implementing this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1465, § 1, effective May 21.

## PART 2

### STATE ACCOUNTABILITY

**22-11-201. State public education system - annual performance review - targets for improvement.** (1) (a) The state board shall annually review the performance of the



statewide public education system, including but not limited to reviewing the levels of attainment on the performance indicators demonstrated by each public school, each school district, and the institute. Following said review, the state board shall set, reaffirm, or revise, as appropriate, ambitious but attainable statewide targets for the measures used to determine the levels of attainment of the performance indicators for the coming academic year with the goal of raising the level of academic performance in the public schools throughout the state. In setting the targets, the state board shall, to the extent possible, ensure that the targets meet federal law requirements.

(b) In adopting the targets required by paragraph (a) of this subsection (1), the state board shall adopt a set of targets for grades three through twelve.

(2) In adopting the targets required by subsection (1) of this section, the state board shall consider any information provided by public schools, local school boards, the institute, school administrators, teachers and teachers' associations, parents and parents' associations, and institutions of higher education related to the academic performance of the public education system in Colorado.

(3) The state board shall adopt and publish on the data portal the annual statement of targets in accordance with time frames set by state board rule.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1466, § 1, effective May 21.

**22-11-202. Colorado growth model - technical advisory panel - rules.** (1) (a) The state board, by rule, shall adopt, and revise as necessary, the Colorado growth model, which shall be a student longitudinal academic growth model that is available in the public domain. In adopting and revising the Colorado growth model, the state board shall consider recommendations from the technical advisory panel convened pursuant to subsection (2) of this section.

(b) In adopting and revising the Colorado growth model, the state board shall ensure that the model:

(I) Reflects best practices, as acknowledged in the scientific literature, in measuring student longitudinal academic growth with high precision;

(II) To the greatest extent possible, uses a method that will support the academic improvement of public schools, school districts, and the institute;

(III) Can measure a student's progress toward meeting the achievement level of "partially proficient", "proficient", or "advanced" on statewide assessments;

(IV) Can gauge each student's success in making one year's academic growth or more in one year's time;

(V) Provides results that are meaningful, reliable, and valid, given their intended purposes, to enable parents, teachers, and administrators to identify individual students or groups of students who are or are not making adequate academic growth;

(VI) Recognizes the improvement of a student whose scores on the statewide assessments increase even if the increase is not sufficient for the student to attain a higher achievement level;

(VII) Uses individual student scores achieved on the statewide assessments;

(VIII) Is described in a publicly available document that sets forth the mathematical equations used in the model and that fully and accurately explains the methods used to complete the records for students with incomplete data; and

(IX) Can treat the analysis and reporting of data electronically and produces student, public school, school district, institute, and state reports that the department provides to school districts, the institute, public schools, and the public through the data portal.

(c) Within ninety days after receiving the information from the 2009-10 administration of the postsecondary and workforce planning, preparation, and readiness assessments pursuant to section 22-7-1007, the department shall recommend to the state board for adoption by rule any necessary adjustments to the Colorado growth model to ensure that it measures student academic growth over time toward attainment of the standards adopted pursuant to section 22-7-1005 and attainment of postsecondary and workforce readiness as described pursuant to section 22-7-1008. In recommending adjustments to the Colorado



growth model, the department shall consult with the technical advisory panel appointed pursuant to subsection (2) of this section.

(2) (a) To assist the department in implementing the Colorado growth model, the commissioner shall appoint a technical advisory panel of state and national experts on the longitudinal measurement of academic growth for accountability purposes. The members of the technical advisory panel shall serve at the will of the commissioner and shall not receive compensation or reimbursement for expenses.

(b) The department shall convene meetings of the technical advisory panel as necessary and within existing appropriations to review the Colorado growth model and make recommendations to the state board. All meetings of the technical advisory panel shall be open.

(c) The department and the state board shall consult with the technical advisory panel concerning:

(I) The scores on the kindergarten and first, second, and third grade reading assessments approved pursuant to section 22-7-1209 (1) (b) that will identify, as required in section 22-7-1209 (1) (a), the minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades;

(II) The amount of additional credit toward accreditation that each local education provider may receive pursuant to section 22-11-204 (3) (b); and

(III) Methods of including in the accreditation process consideration of student progress in attaining reading competency, as defined in section 22-7-1203 (10), in kindergarten and first and second grade.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1466, § 1, effective May 21. **L. 2012:** (2)(c) added, (HB 12-1238), ch. 180, p. 667, § 3, effective July 1.

### **22-11-203. Student longitudinal academic growth - calculation - data - research.**

(1) (a) Each school year by a date established in state board rules, the department shall calculate, to the extent practicable, what will constitute adequate longitudinal academic growth for each student for that school year in each subject that is included in the statewide assessments. The department shall formulate the calculation in such a way that adequate longitudinal academic growth means:

(I) Catch-up growth for a student who scored at the unsatisfactory or partially proficient achievement level on the statewide assessments in the previous academic year, which is the amount of academic growth necessary to score at the proficient achievement level within three years or by the tenth grade, whichever comes sooner; and

(II) Keep-up growth for a student who scored at the proficient or advanced achievement level on the statewide assessments in the previous academic year, which is the amount of academic growth necessary to score at the proficient achievement level or higher for the succeeding three years or until the tenth grade, whichever is sooner.

(b) The department shall use data available for longitudinal analysis to review and revise the calculation of adequate longitudinal academic growth as necessary.

(c) By the same date established for purposes of paragraph (a) of this subsection (1), the department shall calculate, to the extent practicable, for each student who scored at the proficient achievement level on the statewide assessments in the previous academic year, what will constitute move-up growth for the coming school year in each subject that is included in statewide assessments.

(d) Notwithstanding the provisions of paragraph (a) of this subsection (1), the department may revise, as necessary, the definition of adequate longitudinal growth to incorporate the concept of move-up growth or to meet the requirements of federal law.

(2) (a) For each school year, the department shall provide to each school district in the state academic growth information for each student enrolled in the district public schools, based on the statewide assessment results for the preceding school years. Within ten days after the information is provided to each school district, the department shall also provide the academic growth information to each district public school for the students enrolled in the district public school. Upon receipt of the academic growth information, the principal

of each district public school shall ensure that appropriate educators in the school who work directly with a student have access to the necessary academic growth information concerning that student.

(b) For each school year, the department shall provide to the institute academic growth information for each student enrolled in the institute charter schools, based on the statewide assessment results for the preceding school years. Within ten days after the information is provided to the institute, the department shall also provide the academic growth information to each institute charter school for the students enrolled in the institute charter school. Upon receipt of the academic growth information, the principal of each institute charter school shall ensure that appropriate educators in the school who work directly with a student have access to the necessary academic growth information concerning that student.

(3) The academic growth information required by subsection (2) of this section shall include, but need not be limited to:

(a) Information on whether each student made at least one year's academic growth in one year's time in the preceding school year;

(b) Whether the student made adequate academic growth for the preceding school year as calculated for the student pursuant to subsection (1) of this section;

(c) The longitudinal academic growth calculated for each student to attain catch-up, keep-up, or move-up growth, as described in subsection (1) of this section;

(d) The amount of growth for each student that would result in the student scoring at the partially proficient, proficient, and advanced achievement levels within one, two, and three years; and

(e) School performance indicators as calculated pursuant to section 22-11-204.

(4) The department, school districts, the institute, and public schools shall maintain the confidentiality of each student's statewide assessment scores consistent with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith.

(5) The school district or the district charter school or institute charter school in which a student is enrolled shall maintain the academic growth information received from the department pursuant to subsection (2) of this section in the student's individual student record maintained by the school district or by the district charter school or institute charter school.

(6) The department shall provide technical assistance and training to school districts, the institute, and public schools to assist school district, institute, and public school personnel in interpreting, using, and communicating to parents the academic growth information provided pursuant to subsection (2) of this section. The department shall pay the costs of providing technical assistance and training pursuant to this subsection (6) within existing appropriations or from any gifts, grants, or donations received for implementing this section.

(7) The department, upon request, shall make available to qualified researchers the entire longitudinally linked dataset created pursuant to section 22-11-202 and used for generating academic growth information pursuant to this section and for awarding the governor's distinguished improvement awards. For purposes of this subsection (7), qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations. The department shall provide the data in a format that allows the data to be linked with other publicly available data in the state and shall include all available data regarding student demographics, the state's school identification numbers, and student-level performance data, while protecting the privacy of individual students in a manner consistent with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1468, § 1, effective May 21. **L. 2011:** (2) and (3) amended. (HB 11-1277), ch. 306, p. 1474, § 3, effective August 10.



**22-11-204. Performance indicators - measures.** (1) (a) The department shall annually determine the level of attainment of each public school, each school district, the institute, and the state as a whole on each of the following performance indicators:

(I) Student longitudinal academic growth, based on the measures specified in subsection (2) of this section;

(II) Student achievement levels on the statewide assessments, based on the measures specified in subsection (3) of this section; and

(III) Progress made in closing the achievement and growth gaps, based on the measures specified in subsection (5) of this section.

(b) In addition, the department shall annually determine the level of attainment of each public high school, each school district, the institute, and the state as a whole on the postsecondary and workforce readiness performance indicator, based on the measures specified in subsection (4) of this section.

(2) The department shall determine the level of attainment of each public school, each school district, the institute, and the state as a whole on the student longitudinal academic growth indicator by using the following measures:

(a) For students, the department shall calculate the student academic growth percentiles using the Colorado growth model.

(b) For each public school, the department shall calculate:

(I) The percentage of students enrolled in the public school:

(A) Who attain adequate longitudinal growth as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) Who attain move-up growth; and

(C) Who attain statewide median growth; and

(II) The median student growth among students enrolled in the public school.

(c) For each school district and the institute, the department shall calculate:

(I) The percentage of all students enrolled in the district public schools or in the institute charter schools:

(A) Who attain adequate longitudinal academic growth, as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) Who attain move-up growth; and

(C) Who attain statewide median growth; and

(II) The median student growth among students enrolled in the district public schools or in the institute charter schools.

(d) For the state, the department shall calculate:

(I) The percentage of all students enrolled in the public schools in the state:

(A) Who attain adequate longitudinal academic growth, as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) Who attain move-up growth; and

(C) Who attain statewide median growth; and

(II) The median student growth among students enrolled in the public schools in the state.

(3) (a) The department shall determine the level of attainment of each public school, each school district, the institute, and the state as a whole on the performance indicator that concerns student achievement levels on the statewide assessments by using the following measures:

(I) For each student enrolled in a public school in the state, the department shall determine the student's achievement level in the subjects included in the statewide assessments, as demonstrated by the score achieved by the student on the statewide assessments. The state board shall specify the score ranges that constitute each of the achievement levels.

(II) For each public school, the department shall calculate the percentage of students enrolled in the public school at each grade level who score at each of the achievement levels on the statewide assessments in each of the subjects included in the statewide assessments.



(III) For each school district and the institute, the department shall calculate the percentage of all students enrolled in the district public schools or in the institute charter schools who score at each of the achievement levels in the subjects included in the statewide assessments.

(IV) For the state, the department shall calculate the percentage of all students enrolled in the public schools in the state who score at each of the achievement levels in the subjects included in the statewide assessments.

(b) Beginning in the 2013-14 school year, in determining the level of attainment of a public school that includes third and fourth grades, a school district, the institute, and the state as a whole on the performance indicator that concerns student achievement levels, the department shall calculate the percentages of students enrolled in third and fourth grades in the public school, the school district, all institute charter schools, and the state as a whole who were at one time identified as having a significant reading deficiency pursuant to section 22-7-1205 and who score partially proficient, proficient, or advanced on the statewide reading assessment in third or fourth grade. The state board shall adopt rules by which a public school, a school district, and the institute receive additional credit toward their accreditation ratings using the percentages calculated pursuant to this paragraph (b), which additional credit is increased based on the level of performance.

(4) The department shall determine the level of attainment of each public high school, each school district, the institute, and the state as a whole on the postsecondary and workforce readiness indicator by using, at a minimum, the following measures:

(a) For each public high school, the department shall calculate:

(I) The percentages of students enrolled in the eleventh grade in the public high school who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high school who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high school;

(II) As soon as the data is available, the percentage of students graduating from the public high school who receive a diploma that includes a postsecondary and workforce readiness endorsement as described in section 22-7-1009 (1) and the percentage who receive a diploma that includes an endorsement for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2); and

(III) The graduation and dropout rates, as defined by rule of the state board.

(b) For each school district and the institute, the department shall calculate:

(I) The overall percentages of students enrolled in the eleventh grade in all of the district public high schools or all institute charter high schools who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high schools who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high schools;

(II) Beginning with the first school year for which criteria are adopted pursuant to section 22-7-1009 (1) for awarding diplomas that are endorsed for postsecondary and workforce readiness and for each school year thereafter, the overall percentage of all students graduating from the district public high schools or from the institute charter high schools who receive diplomas that are endorsed for postsecondary and workforce readiness as described in section 22-7-1009 (1) and the percentage who receive diplomas that are endorsed for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2); and

(III) The overall graduation and dropout rates, as defined by rule of the state board, for the district public high schools or the institute charter high schools.

(c) For the state, the department shall calculate:

(I) The percentages of students enrolled in the eleventh grade in public high schools statewide who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high

schools statewide who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high schools;

(II) Beginning with the 2011-12 school year and for each school year thereafter, the overall percentage of all students graduating from the public high schools in the state who receive diplomas that are endorsed for postsecondary and workforce readiness as described in section 22-7-1009 (1) and the percentage who receive diplomas that are endorsed for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2); and

(III) The statewide graduation and dropout rates, as defined by rule of the state board, for the public high schools in the state.

(5) The department shall determine the level of attainment of each public school, each school district, the institute, and the state as a whole on the performance indicator that concerns the progress made in closing the achievement and growth gaps by using the following measures:

(a) (I) For each public school, the department shall disaggregate by student group:

(A) The percentages of students enrolled in the public school who attain adequate longitudinal growth as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) The percentage of students enrolled in the public school who attain move-up growth;

(C) The percentage of students enrolled in the public school who attain statewide median growth;

(D) The median student growth attained by students enrolled in the public school;

(E) The percentage of students enrolled in the public school at each grade level who score at each of the achievement levels in each of the subjects included in the statewide assessments; and

(F) For each public high school, the percentage of students enrolled in the eleventh grade in the public high school who score at each achievement level of the standardized, curriculum-based, achievement, college entrance examination or the percentages of students enrolled in each of the grade levels included in the public high school who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high school; the percentages of students graduating from the public high school who receive a diploma that includes a postsecondary and workforce readiness endorsement or an endorsement for exemplary demonstration of postsecondary and workforce readiness; and the graduation and dropout rates.

(II) The department shall compare the percentages and assessment achievement levels across student groups to determine the progress made by the public school in increasing over time each student group's longitudinal academic growth, academic achievement, postsecondary and workforce readiness, and graduation rate, and in decreasing each student group's dropout rate, especially for those student groups who are underperforming in comparison to other groups.

(b) (I) For each school district and the institute, the department shall disaggregate by student group:

(A) The percentages of students enrolled in the district public schools or in the institute charter schools who attain adequate longitudinal growth as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) The percentage of students enrolled in the district public schools or in the institute charter schools who attain move-up growth;

(C) The percentage of students enrolled in the district public schools or in the institute charter schools who attain statewide median growth;

(D) The median student growth attained by students enrolled in the district public schools or in the institute charter schools;

(E) The percentage of students enrolled in the district public schools or in the institute charter schools at each grade level who score at each of the achievement levels in each of the subjects included in the statewide assessments; and



(F) The overall percentage of students enrolled in the eleventh grade in the district public high schools or the institute charter high schools who score at each achievement level of the standardized, curriculum-based, achievement, college entrance examination or the percentages of students enrolled in each of the grade levels included in the public high schools who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high schools; the overall percentages of students graduating from the district public high schools, or the institute charter high schools, who receive a diploma that includes a postsecondary and workforce readiness endorsement or an endorsement for exemplary demonstration of postsecondary and workforce readiness; and the overall graduation and dropout rates for the district public high schools or the institute charter high schools.

(II) The department shall compare the percentages and assessment achievement levels across student groups to determine the progress made by the district public schools or the institute charter schools in increasing over time each student group's longitudinal academic growth, academic achievement, postsecondary and workforce readiness, and graduation rate, and in decreasing each student group's dropout rate, especially for those student groups who are underperforming in comparison to other groups.

(c) (I) For the state, the department shall disaggregate by student group:

(A) The percentages of students enrolled in the public schools in the state who attain adequate longitudinal growth as calculated pursuant to section 22-11-203 (1), including the percentages of students who attain catch-up growth and keep-up growth;

(B) The percentage of students enrolled in the public schools in the state who attain move-up growth;

(C) The percentage of students enrolled in the public schools in the state who attain statewide median growth;

(D) The median student growth attained by students enrolled in the public schools in the state;

(E) The percentage of students enrolled in the public schools in the state at each grade level who score at each of the achievement levels in each of the subjects included in the statewide assessments; and

(F) The percentage of students enrolled in the eleventh grade in the public high schools in the state who score at each achievement level of the standardized, curriculum-based, achievement, college entrance examination or the percentages of students enrolled in each of the grade levels included in the public high schools in the state who score at each achievement level on the postsecondary and workforce readiness assessments administered by the public high schools; the overall percentages of students graduating from the public high schools in the state who receive diplomas that include postsecondary and workforce readiness endorsements or endorsements for exemplary demonstration of postsecondary and workforce readiness; and the overall graduation and dropout rates for the public high schools in the state.

(II) The department shall compare the percentages and assessment achievement levels across student groups to determine the progress made by the public schools in the state in increasing over time each student group's longitudinal academic growth, academic achievement, postsecondary and workforce readiness, and graduation rate, and in decreasing each student group's dropout rate, especially those student groups who are underperforming in comparison to other groups.

(6) Notwithstanding any provision of this section to the contrary:

(a) In calculating the levels of attainment of the performance indicators, the department shall ensure compliance with the federal statutes and regulations and may adjust the calculation methods as necessary to ensure said compliance;

(b) To comply with the privacy requirements of the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g and any other federal requirements, the department may forego the calculations required in this section for a public school or a grade level in which the number of enrolled students is less than a minimum number determined by department policy. If the department does not calculate the levels of attainment of the performance indicators as provided in this section for a public school, the department shall determine an alternate method of measuring the public school's perfor-



mance that is comparable to the provisions of this section and complies with the requirements of federal statutes and regulations.

(c) The department may adjust the calculations specified in this section as necessary to take into account students for whom no score is recorded on the statewide assessments; the standardized, curriculum-based, achievement, college entrance examination; or the post-secondary and workforce readiness assessments.

(7) The department shall report on the data portal the levels of attainment on the performance indicators, as measured pursuant to this section, for each public school in the state, each school district, the institute, and the state as a whole; except that, in reporting data disaggregated by student groups, the department shall not report data for any student group that is smaller than the minimum number of students necessary to protect student privacy, as determined by the department.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1470, § 1, effective May 21. L. 2012: (4)(b)(II) amended, (HB 12-1345), ch. 188, p. 729, § 19, effective May 19; (4)(a)(II) amended, (HB 12-1240), ch. 258, p. 1310, § 7, effective June 4; (3) amended, (HB12-1238), ch. 180, p. 667, § 4, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (4)(b)(II), see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-11-205. State review panel - creation.** (1) (a) The commissioner shall recruit an appropriate number of highly qualified persons to serve when needed as a state review panel. The commissioner, with the approval of the state board, shall appoint the members of the state review panel to assist the department and the state board as provided in this article.

(b) In appointing the members of the state review panel, the commissioner shall select persons on the basis of demonstrated expertise in one or more of the following fields:

- (I) School district or school leadership or governance;
- (II) Standards-based elementary or secondary curriculum instruction and assessment;
- (III) Instructional data management and analysis;
- (IV) School district, school, or program evaluation;
- (V) Educational program management;
- (VI) Teacher leadership;
- (VII) Organizational management or school district and public school governance;
- (VIII) School district or school budgeting and finance;
- (IX) Any other field that the commissioner deems to be relevant to the review and evaluation of school district, institute, or public school performance or improvement planning.

(2) The commissioner shall convene all or a portion of the state review panel as necessary to carry out the duties specified in this article.

(3) The department may accept and expend moneys received from gifts, grants, or donations to compensate members of the state review panel or reimburse them for expenses incurred in performing their duties pursuant to this article. The department shall not pay compensation or reimbursements if sufficient moneys are not available.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1477, § 1, effective May 21.

**22-11-206. Accreditation of school districts and institute - contracts - rules.** (1) Pursuant to the authority vested in the state board by section 1 of article IX of the state constitution to exercise general supervision over the public schools in the state, the state board shall annually accredit the school districts and the institute as provided in this article and pursuant to rules adopted by the state board in accordance with this article.

(2) The state board shall enter into an accreditation contract with each local school board and with the institute. Each accreditation contract shall have a term of one year and

shall be automatically renewed each year so long as the school district or the institute remains in the accreditation category of accredited or higher. The parties to each accreditation contract may renegotiate the contract at any time during the term of the contract, based on appropriate and reasonable changes in the circumstances upon which the original contract terms were based. The state board shall promulgate rules specifying the contents and terms of the accreditation contract in accordance with the provisions of this article.

(3) Each accreditation contract shall, at a minimum, address the following elements:

(a) The school district's or institute's level of attainment on the performance indicators, as determined pursuant to section 22-11-204;

(b) The school district's or the institute's adoption and implementation of its performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the school district's or institute's accreditation category;

(c) The school district's implementation of its system for accrediting the district public schools or the institute's implementation of its system for accrediting the institute charter schools; and

(d) The school district's or institute's substantial, good-faith compliance with the provisions of this title and other statutory and regulatory requirements applicable to school districts and the institute.

(4) (a) For purposes of monitoring a school district's or the institute's substantial and good-faith compliance with the provisions of this title and other statutory and regulatory requirements, the department shall obtain assurances from the school district or the institute that it is in compliance with:

(I) The provisions of article 44 of this title concerning budget and financial policies and procedures;

(II) The provisions of article 45 of this title concerning accounting and financial reporting; and

(III) If the accreditation contract involves a school district, the provisions of section 22-32-109.1 concerning school safety.

(b) With regard to statutory and regulatory requirements, other than those specified in paragraph (a) of this subsection (4), that are applicable to school districts, the superintendent of the school district and the local school board members shall affirm that the school district and the district public schools are in substantial, good-faith compliance with the statutory and regulatory requirements. If the department has reason to believe that the school district is not in substantial compliance with one or more of the statutory or regulatory requirements, the department shall notify the local school board that it has ninety days after the date of notice to come into compliance. If, at the end of the ninety-day period, the department finds that the school district is not substantially in compliance with the statutory or regulatory requirements, the school district may be subject to the interventions specified in this article.

(c) With regard to statutory and regulatory requirements, other than those specified in paragraph (a) of this subsection (4), that are applicable to the institute, the members of the institute board and the executive director of the institute shall affirm that the institute and the institute charter schools are in substantial, good-faith compliance with the statutory and regulatory requirements. If the department has reason to believe that the institute is not in substantial compliance with one or more of the statutory or regulatory requirements, the department shall notify the institute that it has ninety days after the date of notice to come into compliance. If, at the end of the ninety-day period, the department finds that the institute is not in substantial compliance with the statutory or regulatory requirements, the institute may be subject to the interventions specified in this article.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1477, § 1, effective May 21.

**22-11-207. Accreditation categories - criteria - rules.** (1) The state board shall promulgate rules to establish accreditation categories that shall include, but need not be limited to:



(a) “Accredited with distinction”, meaning a school district or the institute meets or exceeds the statewide targets or targets annually set by the school district or the institute or exceeds statewide attainment on the performance indicators and is required to adopt and implement a performance plan as described in section 22-11-303;

(b) “Accredited”, meaning a school district or the institute meets statewide attainment on the performance indicators and is required to adopt and implement a performance plan as described in section 22-11-303;

(c) “Accredited with improvement plan”, meaning the school district or the institute is required to adopt and implement an improvement plan as provided in section 22-11-304;

(d) “Accredited with priority improvement plan”, meaning the school district or the institute is required to adopt and implement a priority improvement plan as provided in section 22-11-305; or

(e) “Accredited with turnaround plan”, meaning the school district or the institute is required to adopt, with the commissioner’s approval, and implement a turnaround plan as provided in section 22-11-306.

(2) The state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in determining the appropriate accreditation category for each school district and the institute, placing the greatest emphasis on attainment of the performance indicators. At a minimum, the rules shall take into consideration:

(a) A school district’s or the institute’s level of attainment of the statewide targets on the performance indicators and the targets annually established by the school district or the institute, including the levels of attainment of the individual district public schools or the institute charter schools in meeting their annual targets;

(b) A school district’s or the institute’s level of attainment of the performance indicators compared with statewide attainment of the performance indicators;

(c) The length of time during which a school district or the institute has been unable to meet the statewide targets or its own targets;

(d) The improvements, changes, and interventions a school district or the institute implements to improve its performance if it is not meeting the statewide targets or its own targets;

(e) The improvements, changes, and interventions a school district or the institute implements in any public school of the district or institute charter school that is required to adopt an improvement, priority improvement, or turnaround plan pursuant to section 22-11-210;

(f) The progress a school district or the institute makes in improving its performance and in moving closer to meeting the statewide targets and its own targets; and

(g) The school district’s or the institute’s compliance with the other requirements specified in the accreditation contract.

(3) In promulgating rules pursuant to this section, the state board shall use clear, understandable language to describe the accreditation categories and the levels of attainment of the performance indicators, with the goal of providing a high degree of transparency in the accreditation process.

(4) The state board by rule shall specify how long a school district or the institute may remain in an accreditation category that is below accredited; except that the state board shall not allow a school district or the institute to remain at accredited with priority improvement plan or below for longer than a total of five consecutive school years before removing the school district’s or the institute’s accreditation as provided in section 22-11-209.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1479, § 1, effective May 21.

#### **22-11-208. Accreditation - annual review - supports and interventions - rules.**

(1) (a) The department shall annually review each school district’s and the institute’s performance and, based on the rules of the state board, determine the appropriate accreditation category for the school district or institute. The department shall notify each school district and the institute of its accreditation category and shall publish each school district’s and the institute’s accreditation category, with supporting data, on the data portal. The

department shall also publish each school district's and the institute's performance, improvement, priority improvement, or turnaround plan, whichever is applicable, on the data portal following adoption of the plan.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the department may change a school district's or the institute's accreditation category prior to conclusion of the annual performance review if the department determines that the school district or the institute has substantially failed to meet a requirement specified in the accreditation contract and that immediate action is required to protect the interests of the students and parents of students enrolled in the district public schools or the institute charter schools.

(c) In reviewing school districts' and the institute's performance, the department, to the extent possible, shall evaluate the cost effectiveness of intervention strategies implemented by the state, school districts, and the institute in attempting to improve performance in school districts that are in an accreditation category that is lower than accredited or in the institute if it is in an accreditation category that is lower than accredited.

(d) The state board by rule shall establish the time frames in which the department shall review school district and institute performance and determine and report each school district's and the institute's appropriate accreditation category, and the time frames in which the school districts and the institute shall adopt their respective plans and submit them for review and publication on the data portal. A school district with one thousand students or fewer shall only be required to submit a single plan to satisfy the school district and school plan requirements.

(e) The state board shall promulgate rules to ensure a school district's or the institute's right to a hearing before the state board to appeal placement in the accredited with turnaround plan category or removal of accreditation pursuant to section 22-11-209.

(2) The department shall provide technical assistance and support to school districts that are accredited with improvement plan, accredited with priority improvement plan, or accredited with turnaround plan and to the institute if it is accredited at any of those categories. The department shall base the amount of technical assistance and support provided to a school district or the institute on the school district's or institute's degree of need for assistance and the department's available resources. Technical assistance and support may include, but need not be limited to:

(a) Access to data and research to support interpretation of student data, decision-making, and learning;

(b) Consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, strategies that address early childhood education and student engagement and re-engagement; and

(c) Evaluation and feedback on the school district's or the institute's improvement, priority improvement, or turnaround plan, whichever is applicable.

(3) The commissioner may assign the state review panel to critically evaluate a school district's priority improvement plan or the institute's priority improvement plan. The commissioner shall assign the state review panel to critically evaluate a school district's turnaround plan or the institute's turnaround plan. Based on its evaluation, the state review panel shall report to the commissioner and the state board recommendations concerning:

(a) Whether the school district's or institute's leadership is adequate to implement change to improve results;

(b) Whether the school district's or institute's infrastructure is adequate to support school improvement;

(c) The readiness and apparent capacity of public school and school district or institute personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the district public schools or the institute charter schools;

(d) The readiness and apparent capacity of public school and school district or institute personnel to engage productively with and benefit from the assistance provided by an external partner;



(e) The likelihood of positive returns on state investments of assistance and support to improve the school district's or institute's performance within the current management structure and staffing; and

(f) The necessity that the school district or institute remain in operation to serve students.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1481, § 1, effective May 21. **L. 2011:** (1)(d) amended, (HB 11-1277), ch. 306, p. 1476, § 6, effective August 10.

**22-11-209. Removal of accreditation - recommendation - review - appeal - rules.**

(1) The department may recommend to the commissioner and the state board that the state board remove a school district's or the institute's accreditation if:

(a) The school district or the institute is accredited with turnaround plan and the department determines that the school district or the institute has failed to make substantial progress under its turnaround plan; or

(b) The school district or the institute has been in the accredited with priority improvement plan category or lower for five consecutive school years; or

(c) (I) The school district or the institute has substantially failed to comply with the provisions of article 44 of this title, concerning budget and financial policies and procedures, or article 45 of this title, concerning accounting and financial reporting; and

(II) The school district or institute has not remedied the noncompliance within ninety days after receipt of notice from the department; and

(III) Loss of accreditation is required to protect the interests of the students and parents of students enrolled in the district public schools or the institute charter schools.

(2) (a) If the department recommends removing accreditation pursuant to this section, the commissioner shall assign the state review panel to critically evaluate the school district's or the institute's performance and to recommend one or more of the following actions:

(I) If the recommendation applies to a school district:

(A) That the school district be reorganized pursuant to article 30 of this title, which reorganization may include consolidation;

(B) That a private or public entity, with the agreement of the school district, take over management of the school district or management of one or more of the district public schools;

(C) That one or more of the district public schools be converted to a charter school;

(D) That one or more of the district public schools be granted status as an innovation school pursuant to section 22-32.5-104 or that the local school board recognize a group of district public schools as an innovation school zone pursuant to section 22-32.5-104; or

(E) That one or more of the district public schools be closed; or

(II) If the recommendation applies to the institute:

(A) That the institute board be abolished and that the governor appoint a new institute board pursuant to section 22-30.5-505;

(B) That a public or private entity take over management of the institute or management of one or more of the institute charter schools; or

(C) That one or more of the institute charter schools be closed.

(b) In its evaluations and recommendations, the state review panel shall consider:

(I) Whether the school district's or institute's leadership is adequate to implement change to improve results;

(II) Whether the school district's or institute's infrastructure is adequate to support school improvement;

(III) The readiness and apparent capacity of public school and school district or institute personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the district public schools or the institute charter schools;

(IV) The readiness and apparent capacity of public school and school district or institute personnel to engage productively with and benefit from the assistance provided by an external partner;

(V) The likelihood of positive returns on state investments of assistance and support to improve the school district's or institute's performance within the current management structure and staffing; and

(VI) The necessity that the school district or institute remain in operation to serve students.

(3) Based on the recommendations of the department, the commissioner, and the state review panel, the state board shall determine whether to remove a school district's or the institute's accreditation. If the state board removes a school district's or the institute's accreditation, the state board shall notify the school district or the institute of the actions the school district or the institute is required to take. After the school district or the institute takes the required actions, the state board shall reinstate the school district's or the institute's accreditation at the accreditation category deemed appropriate by the state board.

(4) The state board shall promulgate rules for the implementation of this section, including but not limited to procedures to ensure a school district's or the institute's right to appeal to the state board before the state board takes final action to remove the school district's or the institute's accreditation pursuant to this section.

**Source: L. 2009:** Entire article R&RE. (SB 09-163), ch. 293, p. 1482, § 1, effective May 21.

**22-11-210. Public schools - annual review - plans - supports and interventions - rules.** (1) (a) The state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in recommending to the state board that a public school shall implement a performance, improvement, priority improvement, or turnaround plan or that a public school shall be subject to restructuring. In promulgating the rules, the state board shall place the greatest emphasis on attainment of the performance indicators. In addition, the rules shall, at a minimum, take into consideration:

(I) A public school's level of attainment of the statewide and school district or institute targets on the performance indicators and the public school's level of attainment of its own annual targets;

(II) A public school's level of attainment of the performance indicators compared with statewide attainment of the performance indicators;

(III) The length of time during which a public school has been unable to meet the statewide targets, the school district or institute targets, or its own targets;

(IV) The improvements, changes, and interventions a public school implements to improve its performance if it is not meeting the statewide targets, the school district or institute targets, or its own targets; and

(V) The progress a public school makes in improving its performance and in moving closer to meeting the statewide targets, the school district or institute targets, and its own targets.

(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, the state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in recommending to the state board that an alternative education campus implement a performance, improvement, priority improvement, or turnaround plan or that an alternative education campus shall be subject to restructuring. The state board, in adopting the criteria for evaluating the performance of an alternative education campus, and the department, in applying the criteria, shall take into account the unique purposes of the campuses and the unique circumstances of and challenges posed by the students enrolled in the campuses.

(c) In promulgating rules pursuant to this subsection (1), the state board shall use clear, understandable language to describe the criteria for determining the type of plan that a public school shall implement and the levels of attainment of the performance indicators, with the goal of providing a high degree of transparency in the public school performance review process.



(d) The state board by rule shall specify how long a public school may implement an improvement, priority improvement, or turnaround plan; except that the state board shall not allow a public school to continue implementing a priority improvement or turnaround plan for longer than a combined total of five consecutive school years before requiring the school district or the institute to restructure or close the public school.

(e) The state board by rule shall establish the time frames within which the department shall review each public school's performance, submit recommendations to the state board, and report to the public school and to the school's local school board or the institute the state board's determination regarding the type of plan the public school shall implement. The state board shall also establish by rule the time frames within which the public schools, or the public schools' local school boards or the institute board as appropriate, shall adopt the school plans and submit them to the department. The department shall publish each public school's plan on the data portal with the public school's accreditation category, identified by the local school board or the institute, and supporting data.

(f) In reviewing public schools' performance, the department, to the extent possible, shall evaluate the cost effectiveness of intervention strategies implemented by the state, school districts, the institute, and the public schools in attempting to improve performance in public schools that are implementing school improvement, priority improvement, or turnaround plans.

(2) (a) The department shall annually review each public school's performance and, based on the rules of the state board, recommend to the state board that the public school shall implement a performance, improvement, priority improvement, or turnaround plan for the coming school year. Based on the department's recommendation, the state board shall notify the local school board for the public school, or the institute if the public school is an institute charter school, regarding the type of plan the public school shall implement. The local school board or the institute shall place the public school in the district or institute accreditation category that correlates to the public school's plan, based on the school district's or institute's school accreditation process.

(b) Notwithstanding any provision of this article to the contrary, a school district with one thousand students or fewer may submit a single plan to satisfy the school district and school plan requirements, so long as the plan meets all state and federal requirements for school and district plans. A school district with more than one thousand but fewer than one thousand two hundred students may, upon request and at the department's discretion, submit a single plan to satisfy the school district and school plan requirements, so long as the plan meets all state and federal requirements for school and district plans.

(3) At the request of a district public school's local school board, or at the institute's request for an institute charter school, the department shall provide technical assistance and support to the public school, local school board, or institute in preparing and implementing the public school's improvement, priority improvement, or turnaround plan. The department shall base the amount of technical assistance and support provided to a public school, the local school board, or the institute on the school's degree of need for assistance and the department's available resources. Technical assistance and support may include, but need not be limited to:

(a) Access to data and research to support interpretation of student data, decision-making, and learning;

(b) Consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, strategies that address early childhood education and student engagement and re-engagement; and

(c) Evaluation and feedback on the public school's plan.

(4) The commissioner may assign the state review panel to critically evaluate a public school's priority improvement plan and shall assign the state review panel to critically evaluate a public school's turnaround plan. Based on its evaluation, the state review panel shall report to the commissioner and the state board recommendations concerning:

(a) Whether the public school's leadership is adequate to implement change to improve results;

(b) Whether the public school's infrastructure is adequate to support school improvement;

(c) The readiness and apparent capacity of the public school's personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the school;

(d) The readiness and apparent capacity of the public school's personnel to engage productively with and benefit from the assistance provided by an external partner;

(e) The likelihood of positive returns on state investments of assistance and support to improve the public school's performance within the current management structure and staffing; and

(f) The necessity that the public school remain in operation to serve students.

(5) (a) If a public school fails to make adequate progress under its turnaround plan or continues to operate under a priority improvement or turnaround plan for a combined total of five consecutive school years, the commissioner shall assign the state review panel to critically evaluate the public school's performance and determine whether to recommend:

(I) With regard to a district public school that is not a charter school, that the district public school should be managed by a private or public entity other than the school district;

(II) With regard to a district or institute charter school, that the public or private entity operating the charter school or the governing board of the charter school should be replaced by a different public or private entity or governing board;

(III) With regard to a district public school, that the district public school be converted to a charter school if it is not already authorized as a charter school;

(IV) With regard to a district public school, that the district public school be granted status as an innovation school pursuant to section 22-32.5-104; or

(V) That the public school be closed or, with regard to a district charter school or an institute charter school, that the public school's charter be revoked.

(b) The state review panel shall present its recommendations to the commissioner and to the state board. Taking the recommendations into account, the state board shall determine which of the actions described in paragraph (a) of this subsection (5) the local school board for a district public school or the institute for an institute charter school shall take regarding the public school and direct the local school board or institute accordingly.

(6) If a public school is restructured, the department, to the extent possible, shall track the students enrolled in the public school in the school year preceding the restructuring to determine whether the students reenroll in the public school the following school year or transfer to another public school of the school district, an institute charter school, or a public school of another school district in the state. The department shall provide the student tracking information, without personally identifying the students, to the local school board or the institute upon request.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1485, § 1, effective May 21. **L. 2011:** (2) amended, (HB 11-1277), ch. 306, p. 1476, § 7, effective August 10.

## PART 3

### SCHOOL DISTRICT AND INSTITUTE ACCOUNTABILITY

#### **22-11-301. School district accountability committees - creation - membership.**

(1) Each local school board shall appoint or create a process for the election of a school district accountability committee that shall consist of:

(a) At least three parents of students enrolled in the district public schools;

(b) At least one teacher who is employed by the school district;

(c) At least one school administrator who is employed by the school district; and

(d) At least one person who is involved in business in the community within the school district boundaries.

(2) (a) A person may not be appointed or elected to fill more than one of the member positions required in subsection (1) of this section in a single term.

(b) If a local school board chooses to increase the number of persons on the school district accountability committee, it shall ensure that the number of parents appointed or



elected to the committee pursuant to paragraph (a) of subsection (1) of this section exceeds the number of representatives from the group with the next highest representation.

(c) (I) Except as otherwise provided in subparagraph (II) of this paragraph (c), a parent shall not be eligible to serve on a school district accountability committee if he or she is employed by, or is a relative of a person who is employed by, the school district, including being employed at a public school of the school district.

(II) If a school district makes a good faith effort but is unable to identify a sufficient number of parents who are willing to serve on a school district accountability committee and who are not excluded from serving as provided in subparagraph (I) of this paragraph (c), one or more parents who are employed by, or are related to a person who is employed by, the school district, including being employed at a public school of the school district, may serve on the school district accountability committee.

(III) As used in this paragraph (c), unless the context otherwise requires, “related” or “relative” means a person’s spouse, son, daughter, sister, brother, mother, or father.

(3) If a local school board appoints the members of the school district accountability committee, the local school board, to the extent practicable, shall ensure that the parents who are appointed reflect the student populations that are significantly represented within the school district. Said student populations may include, but need not be limited to:

- (a) Students who are members of non-Caucasian races;
- (b) Students who are eligible for free or reduced-cost lunch through the federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq.;
- (c) Students with limited English proficiency, as defined in section 22-24-103 (4);
- (d) Students who are migrant children, as defined in section 22-23-103 (2);
- (e) Students who are identified as children with disabilities pursuant to section 22-20-108; and

(f) Students who are identified as gifted children as defined in section 22-20-202 (6).

(4) If a local school board appoints the members of the school district accountability committee, the local school board, to the extent practicable, shall ensure that:

(a) At least one of the parents appointed to the committee is the parent of a student enrolled in a charter school authorized by the local school board, if the local school board has authorized any charter schools; and

(b) At least one of the persons appointed to the committee has a demonstrated knowledge of charter schools.

(5) The members of each school district accountability committee shall select from among the parent representatives serving on the committee a member to serve as chair or co-chair of the committee. The local school board shall establish the length of term for which the committee chair or co-chair shall serve.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1488, § 1, effective May 21. L. 2010: (3)(c) amended, (SB 10-062), ch. 168, p. 595, § 10, effective April 29. L. 2011: (3)(f) amended, (HB 11-1077), ch. 30, p. 84, § 14, effective August 10.

**Editor’s note:** This section, as it existed prior to 2009, was relocated to § 22-11-601.

## **22-11-302. School district accountability committees - powers and duties.**

(1) Each school district accountability committee shall have the following powers and duties:

(a) To recommend to its local school board priorities for spending school district moneys. Whenever the school district accountability committee recommends spending priorities, it shall make reasonable efforts to consult in a substantive manner with the school accountability committees of the school district. The local school board shall consider the school district accountability committee’s recommendations in adopting the school district budget for each fiscal year pursuant to article 44 of this title.

(b) To advise its local school board concerning preparation of, and annually submit to the local school board recommendations regarding the contents of, a district performance, improvement, priority improvement, or turnaround plan, whichever is required based on the school district’s accreditation category. In advising and preparing the recommendations, the

school district accountability committee shall make reasonable efforts to consult in a substantive manner with the school accountability committees of the school district and shall compile and submit to the local school board the school performance, improvement, priority improvement, and turnaround plans submitted by the school accountability committees pursuant to sections 22-11-403 to 22-11-406.

(c) If the local school board receives a charter school application, to review the charter application prior to consideration by the local school board as provided in section 22-30.5-107 (1);

(d) To provide input and recommendations on an advisory basis to principals concerning the development and use of assessment tools used for the purpose of measuring and evaluating student academic growth as it relates to teacher evaluations;

(e) To consider input and recommendations from the school accountability committee of each school of the school district to facilitate the evaluation of the performance of the school's principal for the purposes of article 9 of this title; and

(f) To provide input to the local school board concerning the creation and enforcement of its school conduct and discipline code.

(2) The local school board and the school district accountability committee shall, at least annually, cooperatively determine the areas and issues, in addition to budget issues, that the school district accountability committee shall study and concerning which the committee may make recommendations to the local school board.

**Source:** **L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1490, § 1, effective May 21. **L. 2010:** (1)(d) and (1)(e) added, (SB 10-191), ch. 241, p. 1069, § 8, effective May 20. **L. 2012:** (1)(e) amended and (1)(f) added, (HB 12-1345), ch. 188, p. 744, § 27, effective May 19.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-602.

**Cross references:** (1) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

(2) For the legislative declaration in the 2012 act amending subsection (1)(e) and adding subsection (1)(f), see section 21 of chapter 188, Session Laws of Colorado 2012.

**22-11-303. Accredited or accredited with distinction - performance plan - school district or institute - contents - adoption.** (1) (a) In accordance with time frames specified in state board rules, each local school board that is accredited or accredited with distinction shall annually adopt a performance plan for the school district as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district performance plan and make recommendations to the local school board concerning the contents of the district performance plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district performance plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The local school board shall submit the adopted district performance plan to the department for publication on the data portal and shall ensure that the district performance plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district performance plan available to members of the public upon request.

(2) (a) In accordance with time frames specified in state board rules, the institute board, if it is accredited or accredited with distinction, shall annually adopt an institute performance plan as described in subsection (3) of this section.



(b) Prior to creating the institute performance plan, the institute shall compile the institute charter school performance, improvement, priority improvement, and turnaround plans prepared for each institute charter school pursuant to sections 22-11-403 to 22-11-406. The institute shall take the compilation of plans into account in creating and adopting the institute performance plan.

(c) The institute shall submit the adopted institute performance plan to the department for publication on the data portal and shall ensure that the institute performance plan is in effect for the institute and the institute charter schools within the time frames specified in state board rule. The institute shall also make copies of the institute performance plan available to members of the public upon request.

(3) A district or institute performance plan shall be designed to raise the academic performance of students enrolled in the school district or in the institute charter schools and to ensure that the school district or the institute, following the next annual accreditation review, attains a higher accreditation category or remains in the same accreditation category if the school district or institute is accredited with distinction. At a minimum, each district and institute performance plan shall:

(a) Set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs for the school district and for the individual district public schools or for the institute and for the individual institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or the institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1491, § 1, effective May 21. L. 2012: (3)(a.5) amended. (HB 12-1238), ch. 180, p. 668, § 5, effective July 1.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-604.

**22-11-304. Accredited with improvement plan - school district or institute - plan contents - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with improvement plan shall annually adopt and implement a district improvement plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district improvement plan and make recommendations to the local school board concerning the contents of the district improvement plan. In advising and making its recommendations, the school district accountability

committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district improvement plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The local school board shall submit the adopted district improvement plan to the department for publication on the data portal and shall ensure that the district improvement plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district improvement plan available to members of the public upon request.

(2) (a) If the institute is accredited with improvement plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute improvement plan as described in subsection (3) of this section. In preparing the institute improvement plan, the institute board shall take into account and incorporate any institute charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) The institute shall submit the adopted institute improvement plan to the department for publication on the data portal and shall ensure that the institute improvement plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the institute improvement plan available to members of the public upon request.

(3) A district improvement plan or an institute improvement plan shall be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district improvement plan or an institute improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1492, § 1, effective May 21. L. 2012: (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 6, effective July 1.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-605.



**22-11-305. Accredited with priority improvement plan - school district or institute - plan contents - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with priority improvement plan shall annually adopt and implement a district priority improvement plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district priority improvement plan and make recommendations to the local school board concerning the contents of the district priority improvement plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district priority improvement plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate the district priority improvement plan and recommend to the commissioner modifications to the plan. The commissioner may recommend to the local school board modifications to the district priority improvement plan, taking into consideration any recommendations of the state review panel.

(d) The local school board shall submit the adopted district priority improvement plan to the department for publication on the data portal and shall ensure that the district priority improvement plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district priority improvement plan available to members of the public upon request.

(2) (a) If the institute is accredited with priority improvement plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute priority improvement plan as described in subsection (3) of this section. In preparing the institute priority improvement plan, the institute board shall take into account and incorporate any institute charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate the institute priority improvement plan and recommend to the commissioner modifications to the plan. The commissioner may recommend to the institute modifications to the institute priority improvement plan, taking into consideration any recommendations of the state review panel.

(c) The institute shall submit the adopted institute priority improvement plan to the department for publication on the data portal and shall ensure that the institute priority improvement plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the institute priority improvement plan available to members of the public upon request.

(3) A district priority improvement plan or an institute priority improvement plan shall be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district priority improvement plan or an institute priority improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1494, § 1, effective May 21. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 7, effective July 1.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-603.

**22-11-306. Accredited with turnaround plan - school district or institute - plan content - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with turnaround plan shall annually adopt and implement a district turnaround plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district turnaround plan and make recommendations to the local school board concerning the contents of the district turnaround plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district turnaround plan, taking into account the advice and recommendations of the school district accountability committee.

(c) Within the time frames specified in state board rule, the local school board shall submit the adopted district turnaround plan to the commissioner for review by the state review panel. The state review panel shall critically evaluate the adopted district turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-208 (3). The commissioner may approve the adopted district turnaround plan or suggest modifications to the plan, taking into consideration any recommendations of the state review panel. The local school board shall revise the adopted district turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified by state board rule.

(d) The local school board shall submit the final, approved district turnaround plan to the department for publication on the data portal and shall ensure that the final, approved district turnaround plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the final, approved district turnaround plan available to members of the public upon request.

(2) (a) If the institute is accredited with turnaround plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute turnaround plan as described in subsection (3) of this section. In preparing the institute turnaround plan, the institute board shall take into account and incorporate any institute charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) Within the time frames specified in state board rule, the institute shall submit the adopted institute turnaround plan to the commissioner for review by the state review panel.



The state review panel shall critically evaluate the adopted institute turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-208 (3). The commissioner shall approve the adopted institute turnaround plan or suggest modifications to the plan, taking into consideration any recommendations of the state review panel. The institute shall revise the adopted institute turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified by state board rule.

(c) The institute shall submit the final, approved institute turnaround plan to the department for publication on the data portal and shall ensure that the final, approved institute turnaround plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the final, approved institute turnaround plan available to members of the public upon request.

(3) A district turnaround plan or an institute turnaround plan shall be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district turnaround plan or an institute turnaround plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3), which strategies shall, at a minimum, include one or more of the following:

(I) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the turnaround plan and shall serve as a liaison to other school partners;

(II) Reorganizing the oversight and management structure within the school district or the institute to provide greater, more effective support for public schools;

(III) For a school district, recognizing individual district public schools as innovation schools or clustering district public schools with similar governance or management structures into one or more innovation school zones and seeking designation as a district of innovation pursuant to article 32.5 of this title;

(IV) Hiring an entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to operate one or more district public schools or institute charter schools pursuant to a contract with the local school board or the institute;

(V) For a school district, converting one or more district public schools to charter schools;

(VI) For the institute, renegotiating and significantly restructuring an institute charter school's charter contract;

(VII) Closing district public schools or institute charter schools; and

(VIII) Other actions of comparable or greater significance or effect;

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1496, § 1, effective May 21. **L. 2011:** (1)(c) amended, (HB 11-1277), ch. 306, p. 1474, § 4, effective August 10. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 8, effective July 1.

**22-11-307. Accreditation of public schools.** (1) The local school board for each school district shall adopt policies for accreditation of the district public schools. The institute board shall adopt policies for accreditation of the institute charter schools. Each school district's and the institute's school accreditation policies, at a minimum, shall include:

(a) The use of accreditation contracts that are comparable to the accreditation contract between a school district or the institute and the state board, as described in section 22-11-206;

(b) Accreditation categories that are comparable to the accreditation categories for school districts and the institute specified in section 22-11-207;

(c) Determination of a public school's accreditation category based on the public school's level of attainment of the performance indicators; and

(d) Adoption and implementation of school performance, improvement, priority improvement, and turnaround plans as required by the state board pursuant to section 22-11-210 (1) and as described in sections 22-11-403 to 22-11-406.

(2) In adopting its school accreditation policies, a local school board or the institute board may choose to be more rigorous in expectations and in the imposition of remedial actions than the system for accreditation of school districts and the institute specified in the provisions of part 2 of this article and the rules adopted pursuant to said part 2.

(2.5) In adopting its school accreditation policies for its on-line programs and on-line schools, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), a local school board or the institute board shall include a review of the on-line program's or school's alignment to the quality standards outlined in section 22-30.7-105 (3) (b).

(3) Each local school board shall annually assign each of its district public schools to an accreditation category that correlates with the type of plan that the department determines, pursuant to section 22-11-210, the district public school is required to adopt. The institute shall annually assign each institute charter school to an accreditation category that correlates with the type of plan that the department determines, pursuant to section 22-11-210, the institute charter school is required to adopt.

(4) If, pursuant to section 22-11-210 (5), the state board directs a local school board or the institute to restructure or close a public school, the local school board or the institute shall work with the department to implement the state board's directions.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1498, § 1, effective May 21. **L. 2011:** (2.5) added, (HB 11-1277), ch. 306, p. 1499, § 23, effective August 10. **L. 2012:** (2.5) amended, (HB 12-1240), ch. 258, p. 1314, § 23, effective June 4.

## PART 4

### SCHOOL ACCOUNTABILITY

#### **22-11-401. School accountability committee - creation - qualifications - elections.**

(1) (a) Each district public school and each institute charter school shall establish a



school accountability committee. Each school accountability committee shall consist of at least seven members as follows:

- (I) The principal of the school or the principal's designee;
- (II) At least one teacher who provides instruction at the school;
- (III) At least three parents or legal guardians of students enrolled in the school;
- (IV) At least one adult member of an organization of parents, teachers, and students recognized by the school; and
- (V) At least one person from the community.

(b) The local school board or the institute shall determine the actual number of persons on the school accountability committee and the method for selecting the members of the school accountability committee. If the local school board or the institute chooses to increase the number of persons on the school accountability committee, it shall ensure that the number of parents, as described in subparagraph (III) of paragraph (a) of this subsection (1), on the committee exceeds the number of representatives from the group with the next highest representation.

(c) A person may not be selected to fill more than one of the member positions required in paragraph (a) of this subsection (1) in a single term.

(d) If the local school board or the institute determines that the members of a school accountability committee should be appointed, the appointing authority shall, to the extent practicable, appoint persons to serve on the school accountability committee who reflect the student populations that are significantly represented within the school. If the local school board or the institute determines that persons shall be elected to serve on the school accountability committee, the school principal shall encourage persons who reflect the student populations that are significantly represented within the school to seek election to the committee. Said student populations may include, but need not be limited to:

- (I) Students who are members of non-Caucasian races;
- (II) Students who are eligible for free or reduced-cost lunch through the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;
- (III) Students with limited English proficiency, as defined in section 22-24-103 (4);
- (IV) Students who are migrant children, as defined in section 22-23-103 (2);
- (V) Students who are identified as children with disabilities pursuant to section 22-20-108; and
- (VI) Students who are identified as gifted children, as defined in section 22-20-202 (6).

(2) The members of each school accountability committee shall annually select from among the parent representatives elected to the committee a member to serve as chair or co-chair of the committee.

(3) If a vacancy arises on a school accountability committee because of a member's resignation or disqualification or for any other reason, the remaining members of the school accountability committee shall fill the vacancy by majority action.

(4) Notwithstanding any provision of this section to the contrary:

(a) If, after making good-faith efforts, a principal or an organization of parents, teachers, and students is unable to find a sufficient number of persons who are willing to serve on the school accountability committee, the principal, with advice from the organization of parents, teachers, and students, may establish an alternative membership plan for the school accountability committee, which plan shall reflect the membership specified in paragraph (a) of subsection (1) of this section as much as practicable;

(b) The members of the governing board of a district charter school or an institute charter school may serve as members of the school accountability committee;

(c) In a school district with five hundred or fewer enrolled students, a member of the local school board may serve on a school accountability committee, and the district accountability committee may serve as a school accountability committee.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1499, § 1, effective May 21. **L. 2010:** (1)(d)(III) amended, (SB 10-062), ch. 168, p. 595, § 11, effective April 29. **L. 2011:** (1)(d)(VI) amended, (HB 11-1077), ch. 30, p. 85, § 15, effective August 10.

**22-11-402. School accountability committee - powers and duties - meetings.**

(1) Each school accountability committee shall have the following powers and duties:

(a) To recommend to the principal of its school priorities for spending school moneys. The principal shall consider the school accountability committee's recommendations regarding spending state, federal, local, or private grants and any other discretionary moneys and take them into account in formulating budget requests for presentation to the local school board, if the school is a district public school, other than a charter school, or in creating the school budget if the school is a district or institute charter school. The school accountability committee for a district public school shall send a copy of its recommended spending priorities to the school district accountability committee and to the local school board.

(b) To advise the principal of the public school and, in the case of a district public school, the superintendent of the school district concerning the preparation of a school performance or improvement plan, if either is required pursuant to section 22-11-210, and to submit recommendations to the principal, and superintendent if applicable, concerning the contents of the performance or improvement plan;

(c) To advise the local school board or the institute concerning the preparation of a school priority improvement or turnaround plan, if either is required pursuant to section 22-11-210, and to submit recommendations to the local school board or the institute concerning the contents of the priority improvement or turnaround plan;

(d) To meet at least quarterly to discuss whether school leadership, personnel, and infrastructure are advancing or impeding implementation of the public school's performance, improvement, priority improvement, or turnaround plan, whichever is applicable, or other progress pertinent to the public school's accreditation contract with the local school board or the institute;

(e) To provide input and recommendations on an advisory basis to district accountability committees and district administration concerning:

(I) Principal development plans for their principal pursuant to section 22-9-106; and

(II) Principal evaluations conducted pursuant to section 22-9-106.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1501, § 1, effective May 21. **L. 2010:** (1)(e) added, (SB 10-191), ch. 241, p. 1070, § 9, effective May 20.

**22-11-403. School performance plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a performance plan, the school principal and the school district superintendent, or his or her designee, in accordance with time frames specified in state board rules, shall adopt a school performance plan, as described in subsection (3) of this section, for the district public school.

(b) The school accountability committee for the district public school shall advise the principal concerning preparation of the performance plan and make recommendations to the principal concerning the contents of the school performance plan. The principal, with the approval of the superintendent or his or her designee, shall create and adopt the school performance plan, taking into account the advice and recommendations of the school accountability committee.

(c) The school district accountability committee shall include the adopted school performance plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school performance plan in developing the budget required by section 22-44-108. The principal and the superintendent or his or her designee shall ensure that the school performance plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a performance plan, the school principal, in accordance with time frames specified in state board rules, shall adopt a school performance plan, as described in subsection (3) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall advise the principal concerning preparation of the performance plan and make recommendations to the principal concerning the contents of the school performance plan. The principal shall create



and adopt the school performance plan, taking into account the advice and recommendations of the school accountability committee.

(c) The institute shall include the adopted school performance plan in the compilation prepared pursuant to section 22-11-303 (2) (b). The principal shall ensure that the school performance plan is in effect for the institute charter school within the time frames established in state board rules.

(3) A school performance plan shall be designed to raise the academic performance of students enrolled in the public school and to ensure that the public school, following the next annual performance review, attains a higher accreditation category or remains in the same accreditation category if the public school is already accredited by the school district or the institute at the highest level. At a minimum, each school performance plan shall:

(a) Set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The principal and school district superintendent, or his or her designee, shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school performance plan to the department for publication on the data portal. The public school shall make copies of the school performance plan available to members of the public upon request.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1502, § 1, effective May 21. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 670, § 9, effective July 1.

**22-11-404. School improvement plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt an improvement plan, the school principal and the school district superintendent, or his or her designee, in accordance with time frames specified in state board rules, shall adopt a school improvement plan, as described in subsection (3) of this section, for the district public school.

(b) The school accountability committee for the district public school shall advise the principal concerning preparation of the school improvement plan and shall make recommendations to the principal concerning the contents of the school improvement plan. The principal, with the approval of the superintendent or his or her designee, shall create and adopt the school improvement plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school improvement plan, the principal shall hold a public hearing to review the plan as required in section 22-32-142 (2).

(c) The school district accountability committee shall include the adopted school improvement plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school improvement plan in developing the

budget required by section 22-44-108. The principal and the superintendent, or his or her designee, shall ensure that the school improvement plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt an improvement plan, the school principal, in accordance with time frames specified in state board rules, shall adopt a school improvement plan, as described in subsection (3) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall advise the principal concerning preparation of the school improvement plan and shall make recommendations to the principal concerning the contents of the school improvement plan. The principal shall create and adopt the school improvement plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school improvement plan, the principal shall hold a public hearing to review the plan as required in section 22-30.5-520 (2).

(c) The institute shall include the adopted school improvement plan in the compilation prepared pursuant to section 22-11-303 (2) (b). The principal shall ensure that the school improvement plan is in effect for the institute charter school within the time frames established in state board rules.

(3) A school improvement plan shall be designed to raise the academic performance of students enrolled in the public school and to ensure that the public school, following the next annual performance review, attains a higher accreditation category. At a minimum, each school improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The principal and school district superintendent, or his or her designee, shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school improvement plan to the department for publication on the data portal. The public school shall make copies of the school improvement plan available to members of the public upon request.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1503, § 1, effective May 21. L. 2011: (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 3, effective August 10. L. 2012: (3)(a.5) added, (HB 12-1238), ch. 180, p. 670, § 10, effective July 1.

**22-11-405. School priority improvement plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a priority improve-



ment plan, the local school board, in accordance with time frames specified in state board rules, shall adopt a school priority improvement plan, as described in subsection (4) of this section, for the district public school.

(b) The school accountability committee for the district public school shall advise the local school board concerning preparation of the school priority improvement plan and shall make recommendations to the local school board concerning the contents of the school priority improvement plan. The local school board shall create and adopt the school priority improvement plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school priority improvement plan, the local school board shall hold a public hearing to review the plan as required in section 22-32-142 (2).

(c) The school district accountability committee shall include the adopted school priority improvement plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school priority improvement plan in developing the budget required by section 22-44-108. The local school board shall ensure that the school priority improvement plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a priority improvement plan, the institute, in accordance with time frames specified in state board rules, shall adopt a school priority improvement plan, as described in subsection (4) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall advise the institute concerning preparation of the school priority improvement plan and shall make recommendations to the institute concerning the contents of the school priority improvement plan. The institute shall create and adopt the school priority improvement plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school priority improvement plan, the institute shall hold a public hearing to review the plan as required in section 22-30.5-520 (2).

(c) The institute shall include the adopted school priority improvement plan in the compilation prepared pursuant to section 22-11-303 (2) (b). The institute shall ensure that the school priority improvement plan is in effect for the institute charter school within the time frames established in state board rules.

(3) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate a public school's priority improvement plan and report to the commissioner any recommended modifications to the plan. The commissioner may recommend to the local school board or the institute modifications to the school priority improvement plan, taking into consideration any recommendations of the state review panel.

(4) A school priority improvement plan shall be designed to ensure that the public school improves its performance to the extent that, following completion of the public school's next annual performance review, the public school attains a higher accreditation category. At a minimum, a school priority improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public

school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (4);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(5) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school priority improvement plan to the department for publication on the data portal. The public school shall make copies of the school priority improvement plan available to members of the public upon request.

**Source:** **L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1505, § 1, effective May 21. **L. 2011:** (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 4, effective August 10. **L. 2012:** (4)(a.5) added, (HB 12-1238), ch. 180, p. 671, § 11, effective July 1.

**22-11-406. School turnaround plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a turnaround plan, the local school board, in accordance with time frames specified in state board rules, shall adopt a school turnaround plan, as described in subsection (3) of this section, for the district public school. Each district public school turnaround plan shall also be subject to evaluation by the state review panel and may be subject to revisions requested by the commissioner as provided in this subsection (1).

(b) The school accountability committee for the district public school shall advise the local school board concerning preparation of the school turnaround plan and shall make recommendations to the local school board concerning the contents of the school turnaround plan. The local school board shall create and adopt the school turnaround plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school turnaround plan, the local school board shall hold a public hearing to review the plan as required in section 22-32-142 (2).

(c) Within the time frames specified in state board rule, the local school board shall submit the adopted school turnaround plan to the commissioner for evaluation by the state review panel. The state review panel shall critically evaluate the adopted school turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-210 (4). The commissioner may suggest modifications to the plan, taking into consideration any recommendations of the state review panel and may require that those plan modifications be made prior to the date when the state board enters into an accreditation contract with the district pursuant to section 22-11-206. The local school board shall revise the school turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified in state board rule. The local school board shall ensure that the final, approved school turnaround plan is in effect for the district public school within the time frames specified in state board rule.

(d) The school district accountability committee shall include the final, approved school turnaround plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the final, approved school turnaround plan in developing the budget required by section 22-44-108.

(e) The local school board shall submit the final, approved school turnaround plan to the department for publication on the data portal. The district public school shall make copies of the final, approved school turnaround plan available to members of the public upon request.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a turnaround plan, the institute, in accordance with time frames specified in state board rules, shall adopt a school turnaround plan, as described in subsection (3) of this section, for the institute charter school. Each institute charter school turnaround plan shall



also be subject to evaluation by the state review panel and may be subject to revisions requested by the commissioner as provided in this subsection (2).

(b) The school accountability committee for the institute charter school shall advise the institute concerning preparation of the school turnaround plan and shall make recommendations to the institute concerning the contents of the school turnaround plan. The institute shall create and adopt the school turnaround plan, taking into account the advice and recommendations of the school accountability committee. Prior to adopting the school turnaround plan, the institute shall hold a public hearing to review the plan as required in section 22-30.5-520 (2).

(c) Within the time frames specified in state board rule, the institute shall submit the adopted school turnaround plan to the commissioner for evaluation by the state review panel. The state review panel shall critically evaluate the adopted school turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-210 (4). The commissioner may suggest modifications to the plan, taking into consideration any recommendations of the state review panel and may require that those plan modifications be made prior to the date when the state board enters into an accreditation contract with the institute pursuant to section 22-11-206. The institute shall revise the school turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified in state board rule. The institute shall ensure that the final, approved school turnaround plan is in effect for the institute charter school within the time frames specified in state board rule.

(d) The institute shall include the final, approved school turnaround plan in the compilation prepared pursuant to section 22-11-303 (2) (b). The institute shall submit the final, approved school turnaround plan to the department for publication on the data portal. The institute charter school shall make copies of the final, approved school turnaround plan available to members of the public upon request.

(3) A school turnaround plan shall be designed to ensure that the public school improves its performance to the extent that, following completion of the public school's next annual performance review, the public school attains a higher accreditation category. At a minimum, a school turnaround plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3), which strategies shall, at a minimum, include one or more of the following:

(I) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the turnaround plan and shall serve as a liaison to other school partners;

(II) Reorganizing the oversight and management structure within the public school to provide greater, more effective support;

(III) For a district public school, seeking recognition as an innovation school or clustering with other district public schools that have similar governance or management structures to form an innovation school zone pursuant to article 32.5 of this title;

(IV) Hiring a public or private entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to manage the public school pursuant to a contract with the local school board or the institute;

(V) For a district public school that is not a charter school, converting to a charter school;

(VI) For a district charter school or an institute charter school, renegotiating and significantly restructuring the charter school's charter contract; and

(VII) Other actions of comparable or greater significance or effect;

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The general assembly may appropriate such moneys as are available to assist school districts and the institute in improving the academic growth of students in public schools that are required to adopt school turnaround plans. In addition, the department may allocate any moneys received pursuant to the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., for such purpose.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1507, § 1, effective May 21. **L. 2011:** (1)(a), (1)(c), (2)(a), and (2)(c) amended, (HB 11-1277), ch. 306, p. 1475, § 5, effective August 10; (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 5, effective August 10. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 671, § 12, effective July 1.

## PART 5

### PERFORMANCE REPORTING

**22-11-501. State data reporting system.** (1) The department shall administer, manage, and maintain a comprehensive data collection and reporting system for collecting and reporting the data specified in and required to implement this article. The department shall ensure that the state data reporting system is capable of:

(a) Collecting, through electronic transfer where possible, all student, public school, school district, and institute performance data required to ascertain the degree to which public schools, school districts, and the institute are meeting the statewide targets for attainment on the performance indicators;

(b) Producing data to support decision-making and learning and to prepare the reports on public school, school district, institute, and state performance described in section 22-11-503;

(c) Protecting the privacy of students;

(d) Including all the information and data elements needed to measure student, public school, school district, institute, and state performance; and

(e) Supporting analysis of the relationship between school district and public school expenditures and program characteristics and effectiveness.

(2) The data elements collected and provided by the department, school districts, the institute, and individual public schools shall be compatible and interoperable. Each school district that has a unique information management system shall ensure that its unique system is compatible with the data elements of the state data reporting system so that all data required to be input into the state data reporting system is made available through electronic transfer and in the appropriate input format.

(3) The department shall have the following duties and responsibilities with regard to the state data reporting system:



- (a) To consult with school district representatives in the design and maintenance of the data model and implementation plans for the electronic transfer of data between school districts, the institute, individual public schools, and the state data reporting system;
  - (b) To provide operational definitions for the state data reporting system through the data dictionary created pursuant to section 22-2-305;
  - (c) To determine the information and specific data elements required for the performance decisions made at each public school, recognizing that the time and effort of instructional personnel expended in collection and compilation of data should be minimized;
  - (d) To develop standardized terms and procedures to be followed at all public schools;
  - (e) To develop an electronic standardized transmittal format to be used for collection of data from school districts, the institute, and public schools;
  - (f) To develop appropriate computer applications to ensure the integrity and integration of the specific data elements;
  - (g) To develop the necessary applications to provide statistical analysis of the comprehensive information and supporting data elements provided in paragraph (f) of this subsection (3) in such a way that required reports may be disseminated, comparisons may be made, and relationships may be determined in order to provide the necessary information for making performance decisions at all public schools;
  - (h) To develop output and reporting formats that will provide school districts, the institute, and public schools with diagnostic information for making academic and safety environment decisions at all public schools;
  - (i) To assist school districts and the institute in establishing their standardized electronic transmittal capabilities, including but not limited to awarding grants pursuant to rule of the state board to public schools, school districts, and the institute to assist them in upgrading their transmittal capabilities;
  - (j) To establish procedures for the annual evaluation of the effectiveness and ease of use of the state data reporting system;
  - (k) To perform such other actions as are necessary to carry out the intent of the general assembly that the needs of the state data reporting system for performance decision-making and reporting are met; and
  - (l) To apply for gifts, grants, and donations, including grants awarded under the federal “American Recovery and Reinvestment Act of 2009”, Pub.L. 111-5, for the implementation of internet-based tools to deliver instructional advice and content supported by formative assessment data and to directly connect teachers across the state to enhance educators’ collaboration, use of data, instruction, and professional accountability.
- (4) The specific responsibilities of each school district and the institute shall include:
    - (a) Developing, with assistance from the department, system compatibility between the state data reporting system and unique school district and individual public school data systems;
    - (b) Providing, with the assistance of the department, in-service training on the state data reporting system’s purposes and scope, a method of electronically transmitting input data, and the use of performance reporting information;
    - (c) Advising the department of all district data management needs as they relate to the state data reporting system;
    - (d) Electronically transmitting required data elements and an accounting as required by section 22-55-108 to the appropriate processing locations in accordance with guidelines established by the department;
    - (e) Determining required data output and reports, comparisons, and relationships to be provided to the school district or the institute by the state data reporting system, continuously reviewing these reports for usefulness and meaning, and submitting recommended additions, deletions, and changes in accordance with the guidelines established by the department; and
    - (f) Being responsible for maintaining the integrity and accuracy of data elements transmitted to the department.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1510, § 1, effective May 21.

**22-11-502. Data portal - creation - contents.** (1) The department shall develop and maintain an internet-based electronic data delivery system to provide education accountability data to public schools, school districts, the institute, parents, and other members of the public.

(2) At a minimum, the department shall publish on the data portal the following items:

(a) The performance reports, as described in section 22-11-503, for public schools, school districts, the institute, and the state;

(b) The accreditation category, with supporting data, determined pursuant to part 2 of this article, for each school district in the state and for the institute;

(c) The accreditation category, with supporting data, for each public school in the state, as determined by the local school board or the institute, whichever is applicable;

(d) For each public school in the state, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the state board's direction pursuant to section 22-11-210;

(e) For each school district in the state, the district performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the school district's accreditation category; and

(f) For the institute, the institute performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the institute's accreditation category.

(3) In publishing supporting data for the school district, institute, and public school accreditation categories, the department shall include data pertaining to the graduation rates that describe the progress made by student groups disaggregated for gender by race and income.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1512, § 1, effective May 21.

**22-11-503. Performance reports - contents - rules.** (1) The department shall publish on the data portal a school performance report for each public school in the state, a school district performance report for each school district in the state, a performance report for the institute, and a performance report for the state as a whole. The department shall continuously update the data included in the performance reports as soon as practicable, but not later than sixty days, after the data become available.

(2) The state board shall adopt rules specifying the information to be included in the school performance reports, the school district and institute performance reports, and the state performance report. The information shall be consistent for each type of report and, at a minimum, shall include the following:

(a) The report subject's level of attainment on each of the performance indicators as determined pursuant to section 22-11-204, including whether the report subject met the targets set for the applicable school year;

(b) For school performance reports, a comparison of the report subject's levels of attainment on the performance indicators with the levels of attainment of the other public schools of the school district and in the state and the information specified in subsection (3) of this section;

(c) For school district performance reports and the institute performance report, a comparison of the report subject's levels of attainment on the performance indicators with other school districts in the state and the institute;

(d) Information concerning comparisons of student performance over time and among student groups;

(e) The report subject's rates of completion, mobility, and truancy as calculated pursuant to rules adopted by the state board; and

(f) Any additional information that may be required by federal law.



(3) In addition to any information specified by rule of the state board, each school performance report shall include the following information concerning the operations and environment of the public school that is the subject of the report:

(a) The name of the public school, the type of school program provided at the public school, and the school year for which the information in the performance report is provided. The performance report shall also include the public school's street address, telephone number, and email address, and, if one exists, the web site address of the school district or the public school.

(b) Information concerning the percentages of students who are not tested or whose scores are not included in determining attainment of the performance indicators;

(c) As described in state board rule, the occurrence of each of the types of incidents described in section 22-32-109.1 (2) (b) (IV), expressed as a number and as a percentage of the total occurrences of all of the incidents;

(d) As calculated pursuant to state board rule, information concerning:

(I) Student enrollment at the public school;

(II) Students, reported as a number and a percentage of the total student enrollment at the public school, who are eligible for free or reduced-cost lunch pursuant to the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(III) Repealed.

(IV) Average daily attendance at the public school; and

(V) For elementary schools, the availability of a preschool program, full-day kindergarten program, and before- and after-school programs at the public school;

(e) Information concerning the staff employed at the public school, including:

(I) The number of persons employed at the public school in each of the following categories and explanations of the job descriptions for each category:

(A) Classroom teachers;

(B) Paraprofessionals;

(C) Administrators;

(D) Other professionals;

(E) School support staff;

(F) School counselors; and

(G) School librarians;

(II) The students-per-classroom-teacher ratios for each grade level included in the public school;

(III) The average number of years of teaching experience among the teachers employed at the public school;

(IV) The number of teachers employed at the public school who hold master's or doctoral degrees;

(V) For junior high, middle, and high schools, the percentage of teachers employed at the public school who are teaching in the subject areas in which they received their bachelor's or graduate degrees;

(VI) The number of teachers employed at the public school who have three or more years of teaching experience. For purposes of this subparagraph (VI), the data used shall describe teachers who have obtained nonprobationary status pursuant to the provisions of part 2 of article 63 of this title.

(VII) The number of professional development days included in the school year;

(f) Information concerning whether the following courses and programs, which are not included in the statewide assessments, are available to students enrolled in the public school and, to the extent they are available on the public school's or school district's web site, internet links to descriptions of these courses and programs:

(I) Art;

(II) Drama or theater;

(III) Music;

(IV) Dance;

(V) Physical education;

(VI) Economics;

(VII) World languages;

- (VIII) History;
- (IX) Geography;
- (X) Civics;
- (XI) Career and technical education;
- (XII) Opportunities for civic or community engagement;
- (XIII) Internet safety programs;
- (XIV) For high schools, advanced placement, international baccalaureate, or honors courses;
- (XV) For elementary schools, international baccalaureate or Montessori curricula;
- (XVI) Extracurricular activities; and
- (XVII) Athletics; and

(g) Information, as described in state board rule, concerning programs and services that are available at the public school to support student health and wellness. The state board is encouraged to include in the school performance report information concerning each school district's and each public school's incorporation of physical activity into the school day.

(4) Each public school, each school district, and the institute shall report accurately the data required to produce a performance report. The state board shall seek to minimize and eliminate the duplication of data reporting required under this section and data reporting required by other state or federal statutes or rules so that school districts, institute charter schools, and the institute may satisfy the multiple reporting requirements within a single reporting framework.

(5) Prior to the publication of the performance reports, the department shall:

(a) Allow each school district and the institute a reasonable period of time to review the school district's or the institute's information as it will appear on the school performance reports; and

(b) Correct any errors or misinformation identified by the school district or institute.

(6) The school performance report produced for each public school pursuant to this section may contain internet links through which a person may access additional information not provided in detail in the report. The state board may make changes in the format or the contents of the performance reports prepared pursuant to this section.

(7) Each public school shall notify the parent or legal guardian of each student enrolled in the public school of the availability on the data portal of its performance report and the performance report for the school district or the institute and for the state. Each public school shall ask the parent or legal guardian of each student enrolled in the school whether the parent or legal guardian wants a printed copy of the school, school district, institute, or state performance report, and shall provide a copy if requested.

**Source:** **L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1513, § 1, effective May 21. **L. 2011:** (3)(g) amended, (HB 11-1069), ch. 117, p. 366, § 3, effective April 20; (3)(d)(III) repealed, (HB 11-1277), ch. 306, p. 1476, § 8, effective August 10. **L. 2012:** (3)(c) amended, (HB 12-1345), ch. 188, p. 744, § 28, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (3)(c), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

**22-11-504. School district and institute reporting requirements.** (1) Each school district shall annually report to the department for each of the district public schools:

(a) Any information necessary to prepare the performance reports described in section 22-11-503;

(b) For each district public school, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the direction from the state board pursuant to section 22-11-210;

(c) The accreditation category, with supporting data, for each district public school; and



(d) Any additional information required for the department to implement the accreditation process described in part 2 of this article.

(2) The institute shall annually report to the department for each institute charter school:

(a) Any information necessary to prepare the performance reports described in section 22-11-503;

(b) For each institute charter school, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the direction from the state board pursuant to section 22-11-210;

(c) The accreditation category, with supporting data, for each institute charter school; and

(d) Any additional information required by the accreditation process described in part 2 of this article.

(3) Each local school board and the institute shall adopt policies to ensure that appropriate personnel within the school district and each institute charter school share with and explain to the parent or legal guardian of each student enrolled in the school district or the institute charter school the student's statewide assessment results and the student's longitudinal academic growth information provided by the department pursuant to section 22-11-203.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1517, § 1, effective May 21.

## PART 6

### SCHOOL AWARDS PROGRAM

**22-11-601. Colorado school awards program - created - rules.** (1) There is hereby established the Colorado school awards program, referred to in this part 6 as the "program", to be administered by the department. The state board shall promulgate rules for the administration of this part 6 and the program. The rules shall include but need not be limited to procedures for transmitting the financial awards to public schools of school districts and institute charter schools that demonstrate outstanding performance.

(2) In addition to the monetary awards made and distributed pursuant to sections 22-11-602, 22-11-603, 22-11-603.5, and 22-11-605, the state board may annually apply moneys from the school awards program fund created in section 22-11-605 to provide tangible items of recognition, such as banners or trophies, to schools that are identified as eligible to receive the John Irwin schools of excellence awards, the governor's distinguished improvement awards, and the centers of excellence awards.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1518, § 1, effective May 21; (2) amended, (SB 09-256), ch. 294, p. 1570, § 40, effective May 21. **L. 2010:** (2) amended, (SB 10-018), ch. 49, p. 189, § 1, effective March 29.

**Editor's note:** This section is similar to former § 22-11-301 as it existed prior to 2009.

**22-11-602. Colorado school awards program - John Irwin schools of excellence awards - rules.** (1) The state board shall annually present financial awards to the highest performing public schools in the state based on the schools' levels of attainment on the performance indicator concerning student achievement levels on the statewide assessments.

(2) Of the moneys available for the program pursuant to this part 6, one third shall be awarded to the public schools with the highest level of attainment on the performance indicator concerning student achievement levels, as calculated pursuant to section 22-11-204 (3). An award granted pursuant to this section shall be known as a "John Irwin Schools of Excellence Award".

(3) Subject to available appropriations, the amount of each award issued pursuant to this section shall be five thousand, ten thousand, or fifteen thousand dollars, depending on

the number of pupils attending the public school receiving the award. If the available appropriations are insufficient to award each school the amount specified in this subsection (3), the department shall reduce all awards for that year proportionately. The state board shall establish by rule the pupil size of the public school for each award amount.

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1518, § 1, effective May 21. L. 2012: (2) amended, (HB 12-1240), ch. 258, p. 1310, § 8, effective June 4.

**Editor's note:** This section is similar to former § 22-11-302 as it existed prior to 2009.

**22-11-603. Governor's distinguished improvement awards - rules.** (1) The state board shall annually present financial awards to the public schools in the state demonstrating the highest rates of student longitudinal growth, including longitudinal growth across multiple years, as measured by the Colorado growth model. The technical advisory panel convened pursuant to section 22-11-202 shall recommend to the state board, and the state board shall establish by rule, the method by which to identify schools that demonstrate the highest rate of student longitudinal growth in one or more school years, as measured by the Colorado growth model. The technical advisory panel shall take school size into account in preparing its recommendations.

(2) Of the moneys available for awards pursuant to this part 6, two thirds shall be awarded pursuant to this section.

(3) An award issued pursuant to this section shall be known as a "Governor's Distinguished Improvement Award".

**Source:** L. 2009: Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21. L. 2011: (1) amended, (HB 11-1277), ch. 306, p. 1477, § 9, effective August 10.

**Editor's note:** This section is similar to former § 22-11-305 as it existed prior to 2009.

**22-11-603.5. Centers of excellence awards.** (1) (a) The state board shall annually present financial awards to public schools in the state that enroll a student population of which at least seventy-five percent are at-risk pupils, as defined in section 22-54-103 (1.5), and that demonstrate the highest rates of student longitudinal growth, as measured by the Colorado growth model. The technical advisory panel convened pursuant to section 22-11-202 shall recommend to the state board, and the state board shall establish by rule, the method by which to identify schools that qualify for an award pursuant to this section.

(b) Awards issued pursuant to this section shall be known as "Centers of Excellence Awards".

(2) A school that receives an award pursuant to this section shall not qualify for an award pursuant to section 22-11-603.

(3) Notwithstanding the provisions of sections 22-11-602 (2) and 22-11-603 (2), of the moneys available for awards pursuant to this part 3, in the 2009-10 budget year and budget years thereafter, two hundred fifty thousand dollars shall be awarded to schools annually pursuant to this section. The department shall apportion the remainder between the "John Irwin schools of excellence awards" and the "Governor's Distinguished Improvement Awards" as provided in sections 22-11-602 (2) and 22-11-603 (2), respectively.

**Source:** L. 2009: Entire section added, (SB 09-256), ch. 294, p. 1567, § 31, effective May 21.

**22-11-604. Colorado school awards program - distribution of award.** (1) Any award presented by the state board pursuant to this part 6 shall be spent or distributed for use within the public school as the principal of the public school, after consultation with the school accountability committee for the public school, deems appropriate.

(2) Any moneys made available to a district public school in the form of an award pursuant to the provisions of this part 6 shall not supplant moneys made available to the



public school from funding received by the school district pursuant to article 54 of this title or pursuant to the taxing authority of the school district. Any moneys made available to an institute charter school in the form of an award pursuant to the provisions of this part 6 shall not supplant moneys payable to the institute charter school pursuant to part 5 of article 30.5 of this title.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21.

**Editor’s note:** This section is similar to former § 22-11-303 as it existed prior to 2009.

**22-11-605. School awards program fund - creation - contributions.** (1) The department is hereby authorized to receive gifts, grants, and donations from any source, public or private, to fund financial awards to public schools pursuant to the program established in this part 6. The department is further authorized to receive gifts, grants, and donations from any source, public or private, to fund tangible items of recognition, such as banners or trophies, to be awarded to public schools that are identified as eligible to receive such financial awards. The department shall transmit all public and private gifts, grants, and donations received pursuant to this section to the state treasurer who shall credit the same, in addition to any appropriations made by the general assembly and the amount transferred pursuant to subsection (3) of this section, to the school awards program fund, which is hereby created in the state treasury and referred to in this section as the “fund”.

(2) Moneys in the fund shall be subject to annual appropriation by the general assembly to the department for purposes of making financial awards and funding tangible items of recognition, such as banners or trophies, pursuant to the provisions of this part 6. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. However, in accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. Any moneys credited to the fund shall be used exclusively for awards and items of recognition and shall not be used to pay for the expenses of the department in administering the program established in this part 6.

(3) Repealed.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21; (1) amended and (3) added, (SB 09-256), ch. 294, p. 1567, § 32, effective May 21.  
**L. 2010:** (1) and (2) amended, (SB 10-018), ch. 49, p. 189, § 2, effective March 29.  
**L. 2012:** (3) repealed, (HB 12-1238), ch. 180, p. 673, § 19, effective July 1.

**Editor’s note:** This section is similar to former § 22-11-304 as it existed prior to 2009.

ARTICLE 12

Teacher and School Administrator  
Protection Act

22-12-101.	Short title	22-12-106.	Frivolous actions - attorney
22-12-102.	Legislative declaration.		fees - costs.
22-12-103.	Definitions.	22-12-107.	Insurance.
22-12-104.	Liability.	22-12-108.	Applicability.
22-12-105.	False reports - misdemeanor.	22-12-109.	Special rule.

**22-12-101. Short title.** This article shall be known and may be cited as the “Teacher and School Administrator Protection Act”.

**Source: L. 2003:** Entire article added, p. 1216, § 1, effective August 6.

**22-12-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Promoting the quality of primary and secondary public education is a compelling state interest;

(b) Maintaining a safe environment is an important component of learning. At times, educators may feel they lack the authority to maintain safety and discipline in the public school classroom or they may hesitate to exercise this authority because of the threat of a lawsuit resulting from their actions.

(c) The filing of meritless lawsuits against school districts, teachers, administrators, and other school district employees interferes with attempts to ensure the quality of public education, particularly where the lawsuits arise out of the good-faith efforts of educators to maintain classroom discipline or address threats to student safety;

(d) Meritless litigation also diverts financial and personnel resources to litigation defense activities and reduces the availability of these resources for educational opportunities for students.

(2) The general assembly finds that legislation to deter meritless lawsuits and sanction deliberately false reports against educators is a rational and appropriate method to address the compelling public interest in protecting school districts and school district employees from unnecessary and harmful litigation.

(3) It is the intent of the general assembly that the provisions of this article and those of the “Colorado Governmental Immunity Act”, article 10 of title 24, C.R.S., be read together and harmonized to give the greatest protection from liability in tort possible for educational entities and their employees. If the provisions of this article and those of the “Colorado Governmental Immunity Act” are interpreted as being in conflict, the provision that grants the greatest immunity and protection to an educational entity and its employees shall prevail.

**Source: L. 2003:** Entire article added, p. 1216, § 1, effective August 6.

**22-12-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Educational entity” means the state board of education, a school district board of education, and a governing body of a charter school.

(2) “Employee” means an individual elected or appointed to an educational entity and an individual who is an employee of an educational entity or who provides student-related services to an educational entity on a contractual basis. “Employee” includes an authorized volunteer who provides student-related services to an educational entity.

**Source: L. 2003:** Entire article added, p. 1217, § 1, effective August 6.

**22-12-104. Liability.** (1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the “Colorado Governmental Immunity Act”, article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;



(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

**Source: L. 2003:** Entire article added, p. 1217, § 1, effective August 6.

**22-12-105. False reports - misdemeanor.** (1) Except as otherwise provided in this section, a person eighteen years of age or older who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both commits a misdemeanor and, upon conviction, shall be fined up to two thousand dollars.

(2) Except as otherwise provided in this section, a student enrolled in a public school who is at least ten years of age but younger than eighteen years of age who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both may, at the discretion of the court and in accordance with the provisions of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., be subject to any of the following penalties:

(a) Community service of a type and for a period of time to be determined by the court;

(b) Any other sanction as the court in its discretion may deem appropriate.

(3) A school district may expel or suspend a student who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both.

(4) The provisions of this section do not apply to statements regarding individuals elected or appointed to a school board.

(5) This section is in addition to and does not limit the civil or criminal liability of persons who make false statements alleging criminal activity by others.

**Source: L. 2003:** Entire article added, p. 1218, § 1, effective August 6.

**22-12-106. Frivolous actions - attorney fees - costs.** (1) In a civil action or proceeding against an educational entity or its employee in which the court finds the educational entity or its employee is immune from suit or from liability pursuant to the provisions of section 22-12-104, the court shall award costs and reasonable attorney fees to the defendant or defendants. The court in its discretion may determine whether such fees and costs are to be borne by the plaintiff's attorney, the plaintiff, or both.

(2) Expert witness fees may be included as part of the costs awarded under this section.

(3) The provisions of this section shall be deemed to be substantive state law.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-107. Insurance.** Unless otherwise provided by statute, the existence of a policy of insurance indemnifying an educational entity against liability for damages is not a waiver of a defense otherwise available to the educational entity or its employees in the defense of a claim.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-108. Applicability.** This article shall be supplemental to the “Colorado Governmental Immunity Act”, article 10 of title 24, C.R.S. An action that is barred under the provisions of the “Colorado Governmental Immunity Act”, including but not limited to section 24-10-109, C.R.S., shall be barred under the provisions of this article.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-109. Special rule.** This article shall not infringe on any right provided under the federal “Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400 et seq.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

ARTICLE 13

School Leadership Academy Program

**Cross references:** For the legislative declaration contained in the 2008 act enacting this article, see section 1 of chapter 310, Session Laws of Colorado 2008.

22-13-101.	Definitions.		board - created - duties -
22-13-102.	School leadership academy		reports - repeal.
	program - created.	22-13-104.	Principal academy - created.
22-13-103.	School leadership academy		

- 22-13-101. Definitions.** As used in this article, unless the context otherwise requires:
- (1) “Board” means the school leadership academy board created pursuant to section 22-13-103.
  - (2) “Commissioner” means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.
  - (3) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.
  - (4) “Program” means the school leadership academy program created pursuant to section 22-13-102.
  - (5) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1368, § 2, effective August 5.

**22-13-102. School leadership academy program - created.** (1) There is hereby created within the department the school leadership academy program. The purpose of the program is to provide a comprehensive leadership and professional development system that identifies, recruits, trains, and inducts qualified persons for leadership positions in public schools. The department shall administer the program in accordance with this article.

(2) (a) The department may solicit and accept gifts, grants, and donations from public and private sources to fund the program.

(b) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

(c) Notwithstanding any provision of this article to the contrary, the department shall not take any measures to implement the program until such time as the department has received at least fifty thousand dollars from gifts, grants, or donations for the purposes of the program.

(d) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, the program is an important element of an accountable program to meet state academic standards and therefore may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1369, § 2, effective August 5.



**22-13-103. School leadership academy board - created - duties - reports - repeal.**

(1) There is hereby created in the department the school leadership academy board, which shall consist of fourteen members appointed by the commissioner as follows:

- (a) One member who represents the department;
- (b) One member who is a principal of an elementary school;
- (c) One member who is a principal of a middle, junior high, or high school;
- (d) One member who is a superintendent of a school district;
- (e) One member who is a dean of an education preparation program at a Colorado institution of higher education;
- (f) One member who represents boards of cooperative services created pursuant to article 5 of this title;
- (g) One member who represents a statewide association of school executives;
- (h) One member who represents a national organization that provides professional development training to school principals;
- (i) One member who represents a statewide organization of teachers;
- (j) One member who represents a statewide organization of school district boards of education; and

(k) Four members who shall be appointed at the discretion of the commissioner. For appointments made after September 1, 2008, at least one of the members appointed pursuant to this paragraph (k) shall be a parent of a student enrolled in a public school of the state.

(2) The commissioner shall make initial appointments to the board on or before September 1, 2008.

(3) The commissioner shall appoint a chair, a vice-chair, and a secretary of the board. The department may provide staff to support the board as necessary.

(4) Each member of the board shall serve a term of three years. The commissioner may appoint any member of the board to succeed himself or herself on the board. Vacancies shall be filled by appointment of the commissioner.

(5) The commissioner shall consider ethnicity, gender, and geographic representation in appointing the members of the board.

(6) The members of the board shall serve without compensation; except that the department may reimburse a member of the board for travel expenses at the discretion of the department.

(7) (a) On or before July 1, 2009, the board shall adopt policies and procedures for the purposes of this section and submit the policies and procedures to the state board for its approval pursuant to subsection (12) of this section. The board shall immediately incorporate any changes to the policies and procedures that are recommended by the state board after its review of the policies and procedures pursuant to subsection (12) of this section.

(b) The policies and procedures adopted by the board pursuant to paragraph (a) of this subsection (7) shall include:

(I) Measures to ensure the availability of the program to individuals residing in rural school districts, including but not limited to measures to facilitate individuals' participation in the program via the internet; and

(II) Criteria for the department to use in selecting participants for the principal academy created in section 22-13-104. The criteria shall include consideration of:

- (A) Limited program resources; and
- (B) Ethnicity, gender, and geographic representation.

(8) The board shall meet at least twice each year to monitor the progress of the program and review the appropriateness of existing policies and procedures adopted by the board pursuant to subsection (7) of this section. The board may advise the state board or the commissioner at any time regarding issues that require the timely attention of the state board or the commissioner.

(9) On or before January 1, 2009, the board shall set forth curricular components for the program.

(10) On and after July 1, 2009, pursuant to section 22-60.5-304 (3), the board shall advise the state board concerning the promulgation of rules and regulations establishing standards and criteria for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees.

(11) (a) On or before February 1, 2010, and on or before February 1 each year thereafter, the board shall report to the commissioner and to the education committees of the house of representatives and the senate, or any successor committees. The board shall make the report publicly available through the department’s web site. The report shall, at a minimum, include:

(I) A summary of the operations and activities of the program during the preceding fiscal year, including but not limited to demographic information regarding the participants in the program; and

(II) Recommendations of the board regarding measures, if any, that are required to ensure that the leadership and professional development system provided by the program are aligned with current standards for professional educator licenses, including but not limited to the provisions of section 22-2-109 (6) and article 60.5 of this title.

(b) Before making recommendations pursuant to subparagraph (II) of paragraph (a) of this subsection (11), the board shall hold a public hearing for the purpose of hearing testimony from education stakeholders concerning the content of the recommendations.

(12) On or before October 1, 2009, the state board shall review the policies and procedures adopted by the school leadership academy board pursuant to subsection (7) of this section and either approve or recommend changes to the policies and procedures.

(13) (a) This section is repealed, effective July 1, 2017.

(b) Prior to said repeal, the board appointed pursuant to this section shall be reviewed as provided in section 2-3-1203, C.R.S.

**Source: L. 2008:** Entire article added, p. 1369, § 2, effective August 5. **L. 2009:** (1)(k) amended, (SB 09-090), ch. 291, p. 1440, § 5, effective August 5.

**22-13-104. Principal academy - created.** (1) The program shall include a principal academy that shall include the following three components:

(a) A training program for practicing principals of public schools within the state; and

(b) An entry-level training program that is aligned with the standards and criteria established by rules and regulations promulgated by the state board pursuant to section 22-60.5-304 (3) for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees.

(2) A school district may nominate an individual to be a participant in the principal academy, but a nomination by a school district shall not be a prerequisite to an individual becoming a participant in the program.

(3) In selecting participants for the principal academy, the department shall use the criteria adopted by the board pursuant to section 22-13-103 (7) (b).

**Source: L. 2008:** Entire article added, p. 1372, § 2, effective August 5.

ARTICLE 14

Dropout Prevention and  
Student Re-engagement

22-14-101.	Legislative declaration.	22-14-105.	Assessment of statewide student attendance data - report.
22-14-102.	Definitions.		
22-14-103.	Office of dropout prevention and student re-engagement - created - purpose - duties.	22-14-106.	Local education provider practices assessment - technical assistance - rules.
22-14-104.	Report of effective policies and strategies - creation - use.	22-14-107.	Student graduation and completion plans - adoption -



	evaluation.		report.
22-14-108.	Local education provider - notice to parent to dropout status.	22-14-110. 22-14-111.	State board - rules. Report to general assembly, state board, and governor - exception to three-year expi- ration.
22-14-109.	Student re-engagement grant program - rules - application - grants - fund created -		

**22-14-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The state of Colorado has placed a high priority on reducing the number of student dropouts in Colorado, including establishing the goal of decreasing the high school dropout rate by half by the 2017-18 academic year;

(b) The Colorado department of education reports that the statewide graduation rate for Colorado high schools for the 2006-07 school year was seventy-five percent, an improvement of nine-tenths of a percentage point over the previous school year;

(c) Although the overall graduation rate may have improved, serious gaps continue to exist in the graduation rates among ethnic and economic groups and, overall, twenty-five percent of the high school students in Colorado are not graduating from high school within four years;

(d) Students with disabilities also continue to achieve a significantly lower graduation rate than other student groups. The graduation rate for Colorado students with disabilities is sixty-three and seven-tenths percent, compared with a statewide graduation rate of seventy-five percent.

(e) According to the 2007 Colorado youth risk behavior survey, approximately one out of ten students did not go to school one or more days in a thirty-day period because they felt unsafe at school or in traveling to or from school. This statistic indicates that, to improve student attendance and graduation rates, schools and school districts must address school safety issues as well as student learning and engagement issues.

(f) Studies clearly show that a student's level of education attainment will directly influence the student's level of achievement and success throughout the rest of his or her life;

(g) The national center for education statistics reports that, in comparing employment rates and levels of education attainment across the country, in 2005, the unemployment rate for persons who dropped out of high school was seven and six-tenths percent, compared to an overall average unemployment rate for all education levels of four percent; and

(h) Studies further show that students who drop out of school are more likely to be involved in crime or delinquency and to lose lifelong opportunities for personal achievement, resulting in economic and social costs to the state.

(2) The general assembly therefore concludes that:

(a) It is imperative that the department of education create an office of dropout prevention and student re-engagement to provide focus, coordination, research, and leadership to assist local education providers in implementing coordinated efforts to reduce the high school dropout rate and increase the high school graduation and completion rates and the levels of student engagement and re-engagement;

(b) To significantly reduce the statewide dropout rate and increase the rates of student engagement and re-engagement, the office of dropout prevention and student re-engagement must also provide leadership in creating and facilitating systemic approaches that involve intersystem collaboration between local education providers and the foster care and child welfare systems, the juvenile justice system, the division of youth services in the department of human services, institutions of higher education, career and technical education providers, adult basic education, general educational development certificate, and English-as-a-second-language programs, offices of workforce development, school-based student support personnel, expanded learning opportunity and family education programs, general educational development programs, and facility schools.

**22-14-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Completion” means a student graduates from high school or receives a certificate or other designation of high school completion such as a general educational development certificate.

(2) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) “Dropout prevention” means school and community-based initiatives to promote positive social, emotional, familial, and educational factors that maintain and strengthen student engagement and address barriers and conditions that may lead a student to drop out of school.

(4) “Expanded learning opportunity programs” means programs that provide kindergarten-through-twelfth-grade supervised learning activities that may include, but need not be limited to, after-school programs, before-school programs, summer school programs, weekend programs, and extended-day and extended-year programs.

(5) “Graduation” means a student meets the locally defined requirements for a high school diploma.

(6) “Grant program” means the student re-engagement grant program established in section 22-14-109.

(7) “High priority local education provider” means a local education provider that the office identifies pursuant to section 22-14-103 (4) as being most in need of technical assistance and support.

(8) “Local education provider” means a school district, a board of cooperative services created pursuant to article 5 of this title, or the state charter school institute created pursuant to section 22-30.5-503.

(9) “Office” means the office of dropout prevention and student re-engagement created within the department of education pursuant to section 22-14-103.

(10) “Parent” means a student’s biological or adoptive parent or the student’s legal guardian or legal custodian.

(10.5) “Performing arts” shall have the same meaning as provided in section 22-1-104.5 (1) (b).

(11) “Priority local education provider” means a local education provider that the office identifies pursuant to section 22-14-103 (4) as being in significant need of technical assistance and support.

(12) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(13) “Student engagement” means a student’s sense of belonging, safety, and involvement in school that leads to academic achievement, regular school attendance, and graduation. Elements of promoting student engagement include providing rigorous and relevant instruction, creating positive relationships with teachers and counselors, providing social and emotional support services for students and their families, creating partnerships with community organizations and families that foster learning outside of the classroom, and cultivating regular school attendance.

(14) “Student graduation and completion plan” means a local education provider’s plan, created pursuant to section 22-14-107, for reducing the student dropout rate and increasing the rates of student engagement, re-engagement, graduation, and completion.

(15) “Student re-engagement” means that a student reenrolls in high school after dropping out prior to completion. Student re-engagement usually results from a local education provider’s use of evidence- or research-based strategies to reach out to students who have dropped out of school and to assist them in transitioning back into school and obtaining their high school diplomas or otherwise completing high school.

(16) “Student support personnel” means a state-licensed or state-certified school counselor, school psychologist, school social worker, or school nurse, or other state-licensed or state-certified mental health professional qualified under state law to provide support services to children and adolescents.

(17) “Visual arts” shall have the same meaning as provided in section 22-1-104.5 (1) (c).



**Source:** L. 2009: Entire article added, (HB 09-1243), ch. 290, p. 1408, § 1, effective May 21. L. 2010: (10.5) and (17) added, (HB 10-1273), ch. 233, p. 1023, § 10, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding subsections (10.5) and (17), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-103. Office of dropout prevention and student re-engagement - created - purpose - duties.** (1) (a) There is hereby created within the department of education the office of dropout prevention and student re-engagement. The head of the office shall be the director of the office of dropout prevention and student re-engagement and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution. The office of dropout prevention and student re-engagement shall consist of the director and an assistant director who shall be appointed by the director. The commissioner may assign or otherwise direct other personnel within the department to assist the director and assistant director in meeting the responsibilities of the office.

(b) The office of dropout prevention and student re-engagement and the director of the office shall exercise their powers and perform their duties and functions under the department of education, the commissioner of education, and the state board of education as if the same were transferred to the department of education by a **type 2** transfer as defined in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S.

(c) The department is strongly encouraged to direct, to the extent possible, any increases in the amount of federal moneys received by the department for programs under Title I, part A of the “Elementary and Secondary Education Act of 1965”, 20 U.S.C. sec. 6301 et seq., programs under the “Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400, et seq., or other federal programs to assist in funding the activities of the office as specified in this article.

(d) The department shall seek and may accept and expend gifts, grants, and donations from public or private entities to fund the operations of the office, including the personnel for the office and execution of the duties and responsibilities specified in this article. Notwithstanding any provision of this article to the contrary, the department is not required to implement the provisions of this article until such time as the department has received an amount in gifts, grants, and donations from public or private entities that the department deems sufficient to adequately fund the operations of the office.

(2) The office shall collaborate with local education providers to reduce the statewide and local student dropout rates and to increase the statewide and local graduation and completion rates in accordance with the goals specified in section 22-14-101. To accomplish this purpose, the office shall assist local education providers in:

(a) Analyzing student data pertaining to student dropout rates, graduation rates, completion rates, mobility rates, truancy rates, suspension and expulsion rates, safety or discipline incidences, and student academic growth data at the state and local levels; and

(b) Creating and evaluating student graduation and completion plans.

(3) To accomplish the purposes specified in subsection (2) of this section, the office shall also:

(a) Review state policies and assist local education providers in reviewing their policies pertaining to attendance, truancy, disciplinary actions under the local education provider’s code of conduct, behavioral expectations, dropout prevention, and student engagement and re-engagement to identify effective strategies for and barriers to reducing the student dropout rates and increasing student engagement and re-engagement within the state;

(b) Identify and recommend, as provided in section 22-14-104, best practices and effective strategies to reduce student dropout rates and increase student engagement and re-engagement;

(c) Develop interagency agreements and otherwise cooperate with other state and federal agencies and with private, nonprofit agencies to collect and review student data and develop and recommend methods for reducing student dropout rates and increasing student engagement and re-engagement. The office shall, to the extent possible, collaborate with, at a minimum:

- (I) Career and technical education providers;
  - (II) General educational development service providers;
  - (III) The prevention services division in the department of public health and environment;
  - (IV) The division of youth corrections and other agencies within the juvenile justice system;
  - (V) The department of corrections;
  - (VI) The judicial department;
  - (VII) Institutions of higher education;
  - (VIII) Offices of workforce development;
  - (IX) Expanded learning opportunity and family education programs;
  - (X) Adult basic education and English-as-a-second-language programs;
  - (XI) Organizations that provide services for pregnant and parenting teens and students with special health and education needs;
  - (XII) Agencies and nonprofit organizations within the child welfare system;
  - (XIII) Private, nonprofit organizations that provide services for homeless families and youth; and
  - (XIV) Private nonprofit or for-profit community arts organizations that work in either visual arts or performing arts;
- (d) Solicit public and private gifts, grants, and donations to assist in the implementation of this article; and

(e) Evaluate the effectiveness of local education providers' efforts in reducing the statewide student dropout rate and increasing the statewide graduation and completion rates and to report progress in implementing the provisions of this article.

(4) (a) The office shall collaborate with other divisions within the department to identify annually through the accreditation process those local education providers that do not meet their established graduation and completion rate expectations. Of those local education providers identified, the office shall use criteria adopted by rule of the state board to determine:

(I) Which local education providers are most in need of improvement and assistance and shall recognize said local education providers as high priority local education providers; and

(II) Which local education providers are in significant need of improvement and assistance and shall recognize said local education providers as priority local education providers.

(b) The office shall provide technical assistance to each high priority local education provider and to priority local education providers as provided in this article.

(5) In addition to the assistance specified in sections 22-14-106 (3) and 22-14-107 (5), the office shall provide technical assistance in the areas of dropout prevention and student engagement and re-engagement to the high priority local education providers and, to the extent practicable within existing resources, to priority local education providers. Technical assistance may include, but need not be limited to:

(a) Training in implementing identified, effective, research-based strategies for dropout prevention and student engagement and re-engagement;

(b) Assistance in estimating the cost of implementing the identified strategies in the schools operated or approved by the high priority or priority local education provider and analyzing the cost-effectiveness of the strategies;

(c) Identification and recommendation of effective approaches applied by other Colorado local education providers that may be similarly situated to the high priority or priority local education provider.

**Source:** L. 2009: Entire article added, (HB 09-1243), ch. 290, p. 1409, § 1, effective May 21. L. 2010: (3)(c)(XII) and (3)(c)(XIII) amended and (3)(c)(XIV) added, (HB 10-1273), ch. 233, p. 1023, § 11, effective May 18.



**Cross references:** For the legislative declaration in the 2010 act amending subsections (3)(c)(XII) and (3)(c)(XIII) and adding subsection (3)(c)(XIV), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-104. Report of effective policies and strategies - creation - use.** (1) On or before December 31, 2009, the office shall review the existing research and data from this state and other states and compile a report of effective dropout prevention and student engagement and re-engagement policies and strategies implemented by local education providers within this state and in other states. The office may use the findings and recommendations in the report to provide technical assistance to high priority and priority local education providers, to assist high priority and priority local education providers in creating student graduation and completion plans, and to recommend to the state board and the general assembly state policies concerning dropout prevention and student engagement and re-engagement. High priority and priority local education providers may use the report to review their policies, to formulate new policies and strategies, and to create and evaluate their student graduation and completion plans.

(2) In preparing the report of effective policies and strategies, the office, at a minimum, shall consult, share information, and coordinate efforts with:

(a) The governor's office;

(b) The P-20 education coordinating council appointed by the governor pursuant to executive order B 003 07;

(c) Local education providers within Colorado that have maintained low student dropout rates and high rates of student engagement and re-engagement in previous years;

(d) State and national experts in dropout rate reduction and student engagement and re-engagement strategies who are knowledgeable about successful policies and practices from other states and local governments in other states; and

(e) Federal government officials who administer dropout rate reduction and student engagement and re-engagement initiatives and programs.

(3) The office shall periodically review and revise the report of effective policies and strategies as necessary to maintain the report's relevance and applicability. The office shall post the initial report of effective strategies and subsequent revisions on the department's web site.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1412, § 1, effective May 21.

**22-14-105. Assessment of statewide student attendance data - report.** Beginning in the 2009-10 academic year, the office, with assistance from other divisions within the department, shall annually analyze data collected by the department from local education providers throughout the state concerning student attendance and the implementation of school attendance policies and practices and shall assess the overall incidence, causes, and effects of student dropout, engagement, and re-engagement in Colorado. On or before February 15, 2010, and on or before February 15 each year thereafter, the office shall provide to local education providers, the state board, the education committees of the senate and the house of representatives, or any successor committees, and the governor's office the assessment and any recommended strategies to address student dropout, engagement, and re-engagement in Colorado. The office may combine this assessment and recommendation with the report required by section 22-14-111.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1413, § 1, effective May 21.

**22-14-106. Local education provider practices assessment - technical assistance - rules.** (1) (a) Each high priority and priority local education provider shall conduct a practices assessment as described in subsection (2) of this section. Each high priority and priority local education provider's practices assessment shall consider community partner-

ships with state and local government agencies and community-based organizations and current practices and policies as they relate to different types of dropout students or students at risk of dropping out.

(b) Each high priority local education provider shall complete its initial practices assessment no later than June 30, 2010. Each priority local education provider shall complete its initial practices assessment no later than June 30, 2011. Following completion of the initial practices assessment, each high priority and priority local education provider shall review and update the practices assessment in accordance with timelines adopted by rule of the state board.

(c) Each local education provider that is not a high priority or priority local education provider is encouraged to conduct a practices assessment and to periodically review and update the practices assessment. A local education provider that chooses to conduct a practices assessment pursuant to this paragraph (c) shall comply with the provisions of subsection (4) of this section.

(d) If a high priority or priority local education provider has authorized one or more existing charter schools pursuant to article 30.5 of this title, each charter school shall conduct its own practices assessment in accordance with the deadlines specified in paragraph (b) of this subsection (1) and submit the assessment to the department pursuant to subsection (4) of this section. A practices assessment conducted by a charter school shall conform to the requirements specified in subsection (2) of this section.

(2) Each practices assessment, at a minimum, shall address the high priority or priority local education provider's:

- (a) Attendance and truancy reporting and enforcement policies and definitions;
- (b) Risk factors and remedies applicable to students who are failing one or more courses, have experienced traumatic life events, or have lost academic interest or motivation and to students whose presence or actions are perceived to be detrimental to other students;
- (c) Interaction with the judicial system in enforcing compulsory school attendance;
- (d) Interaction with the juvenile justice system in:
- (I) Assisting in administering juvenile diversion programs and coordinating supports for all students transitioning out of the juvenile justice system to aid in the continuation of the students' education, especially for those students involved in the juvenile justice system as a result of school-related violations of the local education provider's code of conduct or crimes committed on school property; and
- (II) Coordinating with juvenile probation officers regarding school-related conditions of probation;

(e) Coordination with child welfare services, including but not limited to county departments of social services, facility schools, and other youth services providers;

- (f) Grading policies;
- (g) Policies for grade repetition and remediation;
- (g.5) Practices relating to visual arts and performing arts education, including but not limited to the availability of courses in visual arts and performing arts, requirements for obtaining visual arts or performing arts course credits, the availability of extracurricular activities that involve visual arts or performing arts, and the high priority or priority local education provider's relationships with nonprofit or for-profit community arts organizations;

- (h) Course completion requirements and policies; and
- (i) Policies and practices relating to:
  - (I) The use of individual career and academic plans;
  - (II) Addressing ethnicity, language, and cultural barriers between students' homes and school;

- (III) English-language acquisition;
- (IV) Student acquisition of behavioral, social, and emotional skills;
- (V) Students' health care needs;
- (VI) Alternative and flexible educational strategies;
- (VII) Family involvement and family support services;
- (VIII) Expanded learning opportunity programs;
- (IX) Staff development in implementing evidence-based strategies;



- (X) Innovations to address barriers to school engagement and success;
- (XI) Outreach services to re-engage students who drop out of school; and
- (XII) Review and analysis of data regarding dropout rates, graduation rates, school completion rates, truancy rates, the number of students who are habitually truant, suspension rates, and expulsion rates.

(3) The office shall provide technical assistance to high priority local education providers to assist them in completing their practices assessments. The office may provide technical assistance to priority local education providers as allowable within available appropriations. In addition, at the request of a high priority or priority local education provider and to the extent practicable within available resources, the office shall provide a template, which includes any student data that is pertinent to the high priority or priority local education provider and to which the office has access, to assist the high priority or priority local education provider in preparing its practices assessment.

(4) Upon completing its practices assessment or any updates to the assessment, each high priority and priority local education provider shall transmit the assessment to the department for publication on the internet.

**Source:** **L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1413, § 1, effective May 21. **L. 2010:** (2)(g.5) added, (HB 10-1273), ch. 233, p. 1023, § 12, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding subsection (2)(g.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

#### **22-14-107. Student graduation and completion plans - adoption - evaluation.**

(1) (a) Based on the completed practices assessment, by a date specified by rule of the state board, but not later than October 1, 2010, each high priority local education provider shall adopt a student graduation and completion plan for the schools operated or approved by the high priority local education provider. Each priority local education provider shall adopt a student graduation and completion plan by a date specified by rule of the state board, but not later than October 1, 2011. Following adoption of the initial student graduation and completion plan, each high priority and priority local education provider shall review and update the student graduation and completion plan in accordance with timelines adopted by rule of the state board. In setting the dates for adoption of the initial student graduation and completion plans and the timelines for reviewing and updating the student graduation and completion plans, the state board shall ensure that the dates coincide with the dates by which each local education provider is required to adopt the plan required by its accreditation category or its annual performance review.

(b) Each local education provider that is not a high priority or priority local education provider is encouraged to adopt a student graduation and completion plan and to periodically review and update the plan. A local education provider that chooses to adopt a student graduation and completion plan pursuant to this paragraph (b) shall comply with the provisions of subsection (6) of this section.

(c) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, if a high priority or priority local education provider has authorized one or more existing charter high schools pursuant to article 30.5 of this title, each charter high school shall adopt its own student graduation and completion plan in accordance with the deadlines specified in paragraph (a) of this subsection (1) and submit the plan to the department pursuant to subsection (6) of this section. A student graduation and completion plan adopted by a charter high school shall conform to the requirements specified in subsection (2) of this section.

(2) At a minimum, each high priority and priority local education provider's student graduation and completion plan shall include:

(a) The percentage by which the high priority or priority local education provider anticipates reducing the student truancy rate and dropout rate and the timeline for achieving the reductions;

(b) The percentage by which the high priority or priority local education provider anticipates increasing the student attendance, graduation, and completion rates and the timeline for achieving the increases;

(c) Other objectives that the high priority or priority local education provider identifies that are designed to result in improved dropout prevention, improved student attendance, and improved student engagement and re-engagement within the schools operated or approved by the high priority or priority local education provider;

(d) The manner in which the high priority or priority local education provider will measure success in achieving the goals and objectives of the student graduation and completion plan;

(e) The manner in which school staff and parents will work together to address the risk factors and remedies for students; and

(f) A description of the supports that the high priority or priority local education provider will provide to a student who leaves a public school prior to graduation or completion, which supports, at a minimum, shall include an explanation of the educational alternatives available to the student to assist him or her in re-engaging in school and other information to assist with his or her transition into other educational settings, including but not limited to an adult basic education, general educational development, or English-as-a-second-language program, or into the workforce or job training.

(3) In designing its student graduation and completion plan, each high priority or priority local education provider is encouraged to:

(a) Include a variety of innovative dropout reduction efforts in the plan, including new schools and programs that provide educational environments that are specifically designed to promote student re-engagement, including policies and programs that create alternative pathways to high school graduation;

(a.5) Expand the availability of visual arts and performing arts courses and opportunities through the regular school curriculum and through increased access to extracurricular activities, including but not limited to entering into agreements with nonprofit or for-profit community arts organizations to provide expanded visual arts and performing arts educational programs; and

(b) Review existing supports and resources that the high priority or priority local education provider may leverage to support implementation of the plan, including but not limited to grants for expelled and at-risk student services available pursuant to section 22-33-205, grants available through the school counselor corps grant program created in article 91 of this title, assistance available through the closing the achievement gap program pursuant to section 22-7-611, and federal moneys available pursuant to the "Safe and Drug-free Schools and Communities Act", 20 U.S.C. sec. 7101 et seq.

(4) Each high priority or priority local education provider, in adopting its student graduation and completion plan, shall also adopt a process by which annually to review and evaluate the effectiveness of the plan. Each high priority or priority local education provider that is a school district shall include its practices assessment and its student graduation and completion plan with the plan the school district is required to adopt based on its accreditation category.

(5) The office shall provide technical assistance to high priority local education providers to assist them in completing their student graduation and completion plans. The office may provide technical assistance to priority local education providers as allowable within available appropriations.

(6) Upon adopting its student graduation and completion plan or any updates to the plan, each high priority or priority local education provider shall transmit the plan to the department for publication on the internet.

(7) (a) Beginning in the 2011-12 academic year, the office shall annually evaluate each high priority local education provider's student graduation and completion plan as part of the accreditation review process. The office shall evaluate the components of each student graduation and completion plan, the high priority local education provider's implementation of the plan, and the results achieved. In evaluating the student graduation and completion plans, the office shall generally ensure that the high priority local education provider applies best practices and strategies and employs rigorous ongoing program



evaluation and oversight in implementing the plan. On completion of the evaluation, the office may provide recommendations to the high priority local education provider concerning improvements in the plan design and implementation.

(b) The office may evaluate, as described in paragraph (a) of this subsection (7), the student graduation and completion plans of priority local education providers as allowable within available appropriations.

**Source:** L. 2009: Entire article added, (HB 09-1243), ch. 290, p. 1416, § 1, effective May 21. L. 2010: (3)(a) amended and (3)(a.5) added, (HB 10-1273), ch. 233, p. 1024, § 13, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (3)(a) and adding subsection (3)(a.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-108. Local education provider - notice to parent of dropout status.** (1) Each local education provider shall adopt and implement policies and procedures pursuant to which the local education provider or the public school in which the student was enrolled shall notify a student's parent if the student drops out of school, even if the student is not subject to the compulsory attendance requirement specified in section 22-33-104. The local education provider shall develop the policies and procedures with the goal of encouraging the student to re-enroll in school and of conveying to the student's parent the long-term ramifications to the student of dropping out of school.

(2) At a minimum, the policies and procedures shall specify the time frames by which the local education provider or the public school in which the student was enrolled shall notify the student and his or her parent and shall require the personnel at the public school to attempt to meet in person with the student and his or her parent.

(3) At a minimum, the notice shall include written notification of the student's dropout status and an explanation of the educational alternatives available to the student to assist him or her in re-engaging in school.

**Source:** L. 2009: Entire article added, (HB 09-1243), ch. 290, p. 1418, § 1, effective May 21.

**22-14-109. Student re-engagement grant program - rules - application - grants - fund created - report.** (1) There is hereby created within the department the student re-engagement grant program to provide grant moneys to local education providers to use in providing educational services and supports to students to maintain student engagement and support student re-engagement in high school. Subject to available appropriations, the state board shall award student re-engagement grants to local education providers from moneys appropriated from the student re-engagement grant program fund created in subsection (4) of this section.

(2) The state board shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementing the grant program. At a minimum, the rules shall include:

(a) Timelines and procedures by which a local education provider may apply for a grant;

(b) The information to be included on grant applications, including at a minimum:

(I) The local education provider's plan for providing educational services, including social and emotional support services;

(II) A description of the services to be provided;

(III) The estimated cost of providing the services;

(IV) The criteria the local education provider will apply to measure the effectiveness of the services provided; and

(V) A description of the local education provider's policies and practices related to:

(A) Course completion and credit recovery;

(B) Attendance and behavior improvements;

- (C) Alternative and flexible learning strategies;
- (D) Safe and welcoming school environments;
- (E) Student social and emotional supports;
- (F) Family engagement and family support strategies;
- (G) Staff development;
- (H) Innovations to address barriers to school engagement and success;
- (I) Transference of student records to and receipt of student records from other local education providers; and
- (J) Student participation in and the availability of visual arts and performing arts education.

(3) Each local education provider that seeks to receive a grant pursuant to this section shall submit an application to the department in accordance with the rules adopted by the state board. The department shall review the grant applications received and recommend grant recipients and grant amounts to the state board. The state board shall annually award grants through the grant program based on the department's recommendations.

(4) (a) There is hereby created in the state treasury the student re-engagement grant program fund, referred to in this subsection (4) as the "fund", that shall consist of any moneys credited to the fund pursuant to paragraph (b) of this subsection (4) and any additional moneys that the general assembly may appropriate to the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with the implementation of this section.

(b) The department is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section; except that the department may not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(c) The department may expend up to three percent of the moneys annually appropriated from the fund to offset the costs incurred in implementing this section and in evaluating and providing technical assistance to local education providers that receive grants pursuant to this section.

(d) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(e) The department is encouraged to direct to the fund any federal moneys received by the department that may be used for the purposes specified in this section.

(5) (a) On or before February 15, 2011, and on or before February 15 each year thereafter, the department shall evaluate the student re-engagement services provided by each local education provider that received a grant pursuant to this section in the preceding fiscal year; except that the department need not provide an evaluation for any fiscal year in which grants were not awarded. At a minimum, the department shall review:

(I) The outcomes and effectiveness of the services provided as measured by the demonstrated degree of student re-engagement;

(II) The academic growth of students who received services as a result of the grant, to the extent the information is available;

(III) The reduction in the dropout rate; and

(IV) The increase in the graduation and completion rates for the grant recipients' schools.

(b) The department shall report the evaluation results to the education committees of the senate and the house of representatives, or any successor committees, in conjunction with the report submitted pursuant to section 22-14-111.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1418, § 1, effective May 21. **L. 2010:** (2)(b)(V)(H) and (2)(b)(V)(I) amended and (2)(b)(V)(J) added, (HB 10-1273), ch. 233, p. 1024, § 14, effective May 18.



**Cross references:** For the legislative declaration in the 2010 act amending subsections (2)(b)(V)(H) and (2)(b)(V)(I) and adding subsection (2)(b)(V)(J), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-110. State board - rules.** (1) The state board shall promulgate pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., such rules as may be necessary to implement the provisions of this article. At a minimum, said rules shall include:

(a) The rules required pursuant to section 22-14-103 (4) to establish criteria for identifying high priority and priority local education providers;

(b) The rules required pursuant to section 22-14-109 for the student re-engagement grant program; and

(c) Rules to define and calculate the following rates:

(I) The student dropout rate;

(II) The graduation rate;

(III) The completion rate;

(IV) The student re-engagement rate;

(V) The truancy rate;

(VI) The student mobility rate;

(VII) The student suspension rate; and

(VIII) The student expulsion rate.

(2) To the extent the state board, as of May 21, 2009, has already promulgated any of the rules specified in subsection (1) of this section, the state board shall review said rules and determine whether they should be revised based on the provisions of this article.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1421, § 1, effective May 21.

**22-14-111. Report to general assembly, state board, and governor - exception to three-year expiration.** (1) On or before February 15, 2010, and on or before February 15 each year thereafter, the office shall submit to the state board, the education committees of the senate and the house of representatives, or any successor committees, and to the governor a report making state policy findings and recommendations to reduce the student dropout rate and increase the student graduation and completion rates. At a minimum, in preparing the findings and recommendations, the office shall:

(a) Consider which state statutes and rules may be appropriately amended to provide incentives and support for and remove barriers to reducing the student dropout rate and increasing the student graduation and completion rates, including but not limited to statutes and rules pertaining to funding for local education providers' operating costs, funding for categorical programs, and truancy;

(b) Consider research-based dropout prevention and student engagement and re-engagement strategies;

(c) Determine the amount of state moneys spent on reducing the dropout rates in schools operated or approved by local education providers in the preceding fiscal year and determine the effects of those expenditures; and

(d) Consult with the persons specified in section 22-14-104 (2).

(2) Beginning with the report submitted pursuant to this section on February 15, 2012, the office shall add to the report a summary of the actions taken by local education providers statewide to reduce the student dropout rate and increase the graduation and completion rates and the progress made in achieving these goals. At a minimum, the summary shall include:

(a) A summary and evaluation of the student graduation and completion plans adopted by the local education providers;

(b) A list of the local education providers whose schools have experienced the greatest decrease in student dropout rates and the greatest increase in student graduation and completion rates in the state in the preceding academic year;

- (c) Identification of local education providers and public schools that are achieving the goals and objectives specified in their student graduation and completion plans and those that are not achieving their goals and objectives;
  - (d) Explanation of the actions taken and strategies implemented by the local education providers with the highest student dropout rates to reduce those rates and by the local education providers with the lowest student graduation and completion rates to increase those rates;
  - (e) Identification of the local education providers that have demonstrated the greatest improvement in reducing their student dropout rates and increasing their student graduation and completion rates and descriptions of the actions taken and strategies implemented by the local education providers operating or approving these schools to achieve these improvements; and
  - (f) An evaluation of the overall progress across the state in meeting the goals specified in section 22-14-101 for reducing the student dropout rate and increasing the student graduation and completion rates.
- (3) Notwithstanding the provisions of section 24-1-136 (11), C.R.S., the reporting requirements specified in this article shall not expire but shall continue to be required until repealed by the general assembly.

**Source:** L. 2009: Entire article added, (HB 09-1243), ch. 290, p. 1422, § 1, effective May 21.

COMPENSATORY EDUCATION

ARTICLE 20

Education of Exceptional Children

**Editor’s note:** This article was numbered as article 22 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Law reviews:** For article, “Guardian ad Litem and the Educational Surrogate Parent Role”, see 19 Colo. Law. 2437 (1990).

PART 1		22-20-105.5.	Statewide information and communication network. (Repealed)
EDUCATION OF CHILDREN WITH DISABILITIES		22-20-106.	Special education programs - early intervening services - rules.
22-20-101.	Short title.	22-20-107.	Authority to contract with institutions of higher education or community centered boards.
22-20-102.	Legislative declaration.	22-20-107.5.	District of residence of a child with a disability - jurisdiction.
22-20-102.5.	Legislative declaration - identification of gifted children. (Repealed)	22-20-108.	Determination of disability - enrollment.
22-20-103.	Definitions.	22-20-109.	Tuition - rules.
22-20-104.	Administration - advisory committee - rules.	22-20-110.	Maintenance. (Repealed)
22-20-104.5.	Plan for academic excellence - inclusion of gifted children - cooperation - rules. (Repealed)	22-20-111.	Equipment.
22-20-105.	Depository and retrieval network for visually and hearing impaired children. (Repealed)	22-20-112.	Length of school year.
		22-20-113.	School district report. (Repealed)
		22-20-114.	Funding of programs.



22-20-114.5.	Special education fiscal advisory committee - special education high-cost grants - definitions - repeal.		22-20-119.	abilities - rules - interagency operating agreements - transition meetings - funding. Implementation of change of disability categories for children with disabilities.
22-20-115.	Study - report to general assembly. (Repealed)			
22-20-116.	Minimum standards for educational interpreters for the deaf in the public schools - committee to recommend standards - rules.			PART 2
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22-20-117.	Study of funding education programs for children with disabilities - report to the general assembly - repeal. (Repealed)	22-20-201.		Legislative declaration.
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		22-20-204.		Plan for academic excellence - inclusion of gifted children - cooperation - rules.
22-20-118.	Child find from birth through two years of age - responsi-	22-20-205.		Gifted education programs.
		22-20-206.		Length of school year.

PART 1

EDUCATION OF CHILDREN WITH DISABILITIES

**22-20-101. Short title.** This article shall be known and may be cited as the “Exceptional Children’s Educational Act”.

**Source:** L. 73: R&RE, p. 1258, § 1. **C.R.S. 1963:** § 123-22-1. **L. 79:** Entire section amended, p. 775, § 1, effective July 1.

- 22-20-102. Legislative declaration.** (1) The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children that will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means for identifying and educating those children who are exceptional. To this end, it is necessary to define specific responsibilities for identifying and serving children with disabilities that appropriately reflect the continuum of services that recognizes the capabilities of all state agencies, including special classes in public schools and the establishment of special schools, programs for children with disabilities who are confined to their homes or hospitals, and instruction in institutions of the state for children with disabilities. The final determination for the placement in a special education program of any eligible child with a disability shall be made by a child’s individual family service program for a child from birth through two years of age and a child’s individualized education program team for a child from three to twenty-one years of age as designated by the governing board of the responsible administrative unit or by the governing authority of a state-operated program.
- (2) It is the intent of the general assembly, in keeping with accepted educational principles, that children from three to twenty-one years of age with disabilities shall be educated in the least restrictive environment to the maximum extent appropriate. To this end, the services of special education personnel shall be utilized within the general school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to general classroom teachers.
- (3) It is further the intent of this part 1 to ensure that there is a coordination of all services available to children with disabilities and to promote interagency operating agreements or contracts between administrative units, other public agencies, nonprofit organizations, and approved facility schools for the provision of appropriate services for children with disabilities.
- (4) It is further the intent of the general assembly that this part 1, and the rules promulgated pursuant to this part 1 by the state board, align closely with the federal

“Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 300 and 34 CFR part 303 as it pertains to child find, in order to minimize the number of rules, regulations, and policies to which administrative units, state-operated programs, and approved facility schools are subject.

(5) Nothing in this part 1 shall be construed to affect the placement of children out of the home or alternatives to such placements as provided in section 19-1-116, C.R.S.

**Source:** **L. 73:** R&RE, p. 1258, § 1. **C.R.S. 1963:** § 123-22-2. **L. 77:** Entire section amended, p. 1067, § 10, effective July 1. **L. 79:** Entire section amended, p. 775, § 2, effective July 1. **L. 81:** Entire section amended, p. 1054, § 1, effective June 10. **L. 87:** Entire section amended, p. 818, § 27, effective October 1. **L. 93:** Entire section amended, p. 1639, § 28, effective July 1. **L. 2006:** Entire section amended, p. 316, § 1, effective August 7. **L. 2007:** Entire section amended, p. 1551, § 1, effective May 31. **L. 2011:** (1), (3), and (4) amended, (HB 11-1277), ch. 306, p. 1477, § 10, effective August 10; (3), (4), and (5) amended, (HB 11-1077), ch. 30, p. 74, § 1, effective August 10.

**Editor’s note:** Amendments to subsections (3) and (4) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

#### ANNOTATION

**Enactment of this act placed the responsibility for providing and paying for special education for handicapped children on the school district of their residence thereby re-**

**lieving the department of social services of any obligations it might have had prior to the effective date of the act. A.C.B. v. Denver Dept. of Soc. Servs., 725 P.2d 94 (Colo. App. 1986).**

#### **22-20-102.5. Legislative declaration - identification of gifted children. (Repealed)**

**Source:** **L. 88:** Entire section added, p. 809, § 4, effective May 24. **L. 93:** Entire section amended, p. 1639, § 29, effective July 1. **L. 2007:** Entire section amended, p. 1763, § 1, effective July 1. **L. 2011:** Entire section repealed, (HB 11-1077), ch. 30, p. 74, § 2, effective August 10.

#### **22-20-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) “Administrative unit” means a school district, a board of cooperative services, or the state charter school institute, that is providing educational services to exceptional children and that is responsible for the local administration of this article.

(2) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(2.5) “Applicable revenues” means those revenues, as defined by rules promulgated by the state board pursuant to this article, that support special education expenditures.

(2.7) “Approved facility school” means an educational program that is operated by a facility to provide educational services to students placed in the facility and that, pursuant to section 22-2-407, has been placed on the list of facility schools that are approved to receive reimbursement for providing those educational services to students placed in the facility. An educational program provided by an administrative unit at a facility is not an approved facility school but is an educational program of the administrative unit that does not require approval by the department.

(3) “Board of cooperative services” means a regional educational services unit created pursuant to article 5 of this title and designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

(4) “Child find” means the program component of the IDEA that requires states to find, identify, locate, evaluate, and serve all children with disabilities, from birth to twenty-one years of age. Specific responsibilities for child find are described in section 22-20-118. Child find includes:



(a) Part C child find, which means the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children with disabilities from birth through two years of age; and

(b) Part B child find, which means the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children with disabilities from three to twenty-one years of age.

(5) (a) "Children with disabilities" means:

(I) Those persons from three to twenty-one years of age who, by reason of one or more of the following conditions, are unable to receive reasonable benefit from general education:

(A) Autism spectrum disorders;

(B) A hearing impairment, including deafness;

(C) A serious emotional disability;

(D) An intellectual disability;

(E) Multiple disabilities;

(F) An orthopedic impairment;

(G) Other health impairment;

(H) A specific learning disability;

(I) A speech or language impairment;

(J) Traumatic brain injury;

(K) A visual impairment, including blindness; and

(L) Deaf-blindness.

(M) Repealed.

(II) Those persons from birth through two years of age who have been determined to be an infant or a toddler with a disability.

(III) Those persons from three through eight years of age who have been determined pursuant to 34 CFR 300.8 (b) to be children experiencing developmental delays.

(b) Notwithstanding the provisions of paragraph (a) or (b) of this subsection (5), for purposes of child find activities, "children with disabilities" means persons from birth to twenty-one years of age.

(6) "Communication mode or language" means one or more of the following systems or methods of communication applicable to children who are deaf or hard of hearing:

(a) American sign language;

(b) English-based manual or sign systems; or

(c) Oral, aural, or speech-based training.

(7) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(8) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title.

(8.3) "Early intervening services" means programs and activities for students in kindergarten through grade twelve, with an emphasis on students in kindergarten through grade three, who at the time they receive early intervening services are not identified as children with disabilities, but who need additional academic and behavioral supports in order to succeed in a general education environment.

(8.5) "Early intervention services" means the services and supports specified in section 27-10.5-102 (12), C.R.S., provided to children with disabilities who are less than three years of age.

(8.7) "Educational placement" means the provision of special education services, including but not limited to those points along the continuum of alternative placements. "Educational placement" does not mean a specific place, such as a specific classroom or school.

(9) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1478, § 11, effective August 10, 2011.)

(9.5) "Emergency public placement" means a public placement made necessary because of an imminent danger to a child or others.

(10) "Equipment" means that equipment used especially for the instruction or assessment of children with disabilities.

(11) "Evaluation" means:

(a) For purposes of part C child find, procedures used to determine a child's initial and continuing eligibility for part C child find, including but not limited to:

- (I) Determining the status of the child in each of the developmental areas;
- (II) Identifying the child's unique strengths and needs;
- (III) Identifying any early intervention services that might serve the child's needs; and
- (IV) Identifying priorities and concerns of the family and resources to which the family has access;

(b) For the purposes of part B child find, procedures used under IDEA for children with disabilities to determine whether a child has a disability and the nature and extent of special education and related services that the child will need.

(12) "Exceptional child" means:

(a) A child defined in subsection (5) of this section as a child with a disability. An administrative unit shall serve every child with a disability from three to twenty-one years of age, and may serve children with disabilities from birth through two years of age.

(b) A child defined in section 22-20-202 (6) as a gifted child. Pursuant to section 22-20-204 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve gifted children who are at least five years of age.

(12.3) "Facility" means a day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., or a hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S.

(12.7) "Foster home" shall have the same meaning as a "foster care home" as defined in section 26-6-102 (4.5), C.R.S., and shall be licensed by the department of human services or certified by a county department of social services or certified by a child placement agency as defined in section 26-6-102 (2), C.R.S.

(13) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(13.3) "Group home" means a congregate care facility licensed by the department of human services pursuant to section 26-6-104, C.R.S.

(13.5) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(14) "IDEA" means the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 300 and also 34 CFR part 303 as it pertains to child find.

(15) "Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with this part 1 and the rules promulgated by the state board.

(16) "Individual family service plan" or "IFSP" means a written statement for a child from birth through two years of age with a disability, which statement is developed, reviewed, and revised in accordance with part C child find of IDEA and with rules promulgated by the department of human services.

(17) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(18) "Least restrictive environment" means that:

(a) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have disabilities; and

(b) Special classes, separate schooling, or other removal of children with disabilities from the general educational environment occurs only if the nature and severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be satisfactorily achieved.

(19) "Literacy mode" means one of the following four systems or methods of achieving literacy applicable to blind children:

(a) "Auditory mode" means any method or system of achieving literacy that depends upon the auditory senses, including the use of readers, taped materials, electronic speech, speech synthesis, or any combination of the above.



(b) “Braille” means the system of reading and writing by means of raised points, commonly known as standard English braille.

(c) “Print enlargement” means any method or system of achieving literacy that includes optical aids to enhance apprehension of printed material, electronic enlargement of printed material, books and textual materials printed in large print, and any combination of the above.

(d) “Regular print mode” means any method or system of achieving literacy that depends upon the apprehension of regular-sized printed material.

(19.7) (a) “Parent” means:

(I) A biological or adoptive parent of a child;

(II) A foster parent;

(III) A guardian generally authorized to act as a child’s parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state;

(IV) An individual acting in the place of a biological or adoptive parent, including but not limited to a grandparent, stepparent, or other relative, and with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

(V) An educational surrogate parent assigned by the responsible administrative unit consistent with rules promulgated by the state board in accordance with this article.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), the biological or adoptive parent, when attempting to act as a parent pursuant to this article, and when more than one party is qualified pursuant to paragraph (a) of this subsection (19.7) to act as a parent, shall be presumed to be the parent for purposes of this subsection (19.7) unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(II) If a judicial decree or order identifies a specific person or persons listed in subparagraphs (I) to (IV) of paragraph (a) of this subsection (19.7) to act as the parent of a child or to make educational decisions on behalf of a child, then the person or persons shall be determined to be the parent for purposes of this article.

(20) “Public agency” means a public agency that:

(a) Is not an administrative unit; and

(b) Is legally authorized to place a child in a facility or another out-of-home placement, including but not limited to a group home or a foster home.

(21) “Public placement” means the placement of a child with a disability in a facility or another out-of-home placement, including but not limited to a group home or foster home, by a court or public agency.

(22) “School district” means a school district organized and existing pursuant to law, but shall not include a junior college district.

(22.7) “Special education expenditures” means those expenditures that are incurred by an administrative unit, state-operated program, or approved facility school for professional services associated with special education referrals and evaluations of children who may have a disability and the provision of special education services as identified on an individual student’s individualized education program. Special education expenditures do not include the costs of the general education program. Special education expenditures shall be supplemental to the general education program and shall be above what is provided by the administrative unit, state-operated program, or approved facility school for general education students and staff and may include:

(a) Special education teachers;

(b) Home-hospital teachers for students with disabilities;

(c) Speech-language pathologists and speech-language pathology assistants;

(d) Specialty teachers;

(e) Special education instructional paraprofessionals;

(f) Educational interpreters;

(g) School nurses;

(h) Occupational therapists and occupational therapy assistants;

(i) Physical therapists and physical therapy assistants;

(j) School psychologists;

(k) School social workers;

- (l) Audiologists;
- (m) Orientation and mobility specialists;
- (n) Other special education professionals;
- (o) Special education administrators and office support;
- (p) Other noncertified or nonlicensed support;
- (q) Employee benefits for special education staff;
- (r) Supplies, materials, and equipment used for individual students' special education programs and services;
- (s) Purchased service contracts for personal services;
- (t) Tuition to other administrative units and approved tuition rates to approved facility schools for special education;
- (u) Staff travel related to special education;
- (v) Professional development for special education staff, or all staff, if the content of the professional development is specific to services for children with disabilities;
- (w) Other purchased services related to special education;
- (x) Dues, fees, and other expenditures specific to the special education program; and
- (y) Parent counseling and training, as defined by the IDEA and its implementing regulations.

(23) "Special education services" or "special education programs" means the services or programs provided to a child with a disability in conformity with the child's IEP or IFSP.

(24) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(25) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, and includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. "Specific learning disability" does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(26) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(27) "State charter school institute" means the state charter school institute created pursuant to part 5 of article 30.5 of this title.

(28) "State-operated program" means an approved school program supervised by the department and operated by:

- (a) The Colorado school for the deaf and the blind;
- (b) The department of corrections; or
- (c) The department of human services, including but not limited to the division of youth corrections and the mental health institutes.

**Source:** L. 73: R&RE, p. 1258, § 1. C.R.S. 1963: § 123-22-3. L. 77: (5.5) added, p. 1067, § 11, effective July 1. L. 79: (1), (3), (4), and (5) amended and (3.4) and (3.7) added, p. 775, § 3, effective July 1. L. 81: (5.5) amended, p. 1055, § 2, effective June 1. L. 88: (3) amended and (5) repealed, pp. 762, 763, §§ 1, 4, effective May 31. L. 90: (4) amended, p. 1088, § 57, effective May 31; (3.4) and (4) amended, p. 1044, § 1, effective July 1. L. 93: (1.5) added and (3), (3.4), (4), and (5.5) amended, p. 1640, § 30, effective July 1. L. 94: (5.7) added, p. 914, § 1, effective July 1. L. 96: (1.7) added, p. 40, § 2, effective March 18. L. 97: (5.5) amended, p. 422, § 1, effective July 1. L. 2004: (1) and (5.5) amended and (2.5) and (11) added, p. 1624, § 22, effective July 1. L. 2006: Entire section amended, p. 317, § 2, effective August 7. L. 2007: Entire section amended, p. 1552, § 2, effective May 31; (12) amended, p. 1763, § 2, effective July 1. L. 2008: (12)(b) and (13) amended and (13.5) added, p. 774, § 1, effective May 14; (9) amended, p. 1386, § 14, effective May 27; (8.3) and (8.5) added, p. 624, § 3, effective July 1. L. 2011: IP, (2), (12), (13), (13.5), (15), and (24) amended, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10; (4), (5), (9), (10), IP(12), (12)(a), (14), (18), (20)(b), (21), and (28) amended and (2.5), (2.7), (8.7), (9.5), (12.3), (12.7), (13.3), (19.7), and (22.7) added, (HB 11-1277), ch. 306, p.



1478, § 11, effective August 10. **L. 2012:** (5)(a)(I)(K) and (5)(a)(I)(L) amended, (5)(a)(III) added, and (5)(a)(I)(M) repealed, (HB 12-1345), ch. 188, p. 719, § 6, effective May 19.

**Editor's note:** (1) Subsection (4) was amended in House Bill 90-1314. Those amendments were superseded by the amendments to subsection (4) in House Bill 90-1137.

(2) Subsection (12) was originally numbered as subsection (3.4), and the amendments to it in House Bill 07-1244 were harmonized with Senate Bill 07-255 and renumbered as subsection (12).

(3) Amendments to subsection (12) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsections (8.3) and (8.5), see section 1 of chapter 177, Session Laws of Colorado 2008.

**22-20-104. Administration - advisory committee - rules.** (1) (a) This part 1 shall be administered by the department. Administration of this part 1 shall include the recommendation to the state board of reasonable rules necessary to implement this part 1, including but not limited to:

(I) Minimum standards for administrative units, state-operated programs, approved facility schools, and personnel;

(II) Criteria for determining disability and eligibility for special education services;

(III) Procedures regarding the identification of children with disabilities, including but not limited to part C child find and part B child find activities described in section 22-20-118;

(IV) Requirements for parental consent, including but not limited to parental consent for the evaluation of children with disabilities and the initial provision of special education services;

(V) Required IEP content and procedures for IEP development, review, and revision;

(VI) Application of school discipline procedures to children with disabilities;

(VII) Required procedural safeguards;

(VIII) Procedures for special education dispute resolution;

(IX) Extended school year services; and

(X) Requirements pursuant to the IDEA regarding children with disabilities who are enrolled in private schools.

(XI) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1483, § 12; (HB 11-1077), ch. 30, p. 75, § 4, effective August 10, 2011.)

(b) The state board shall adopt appropriate recommendations as rules to implement this part 1 following public comment and hearing. The rules promulgated by the state board shall be in accord with the legislative declaration set forth in section 22-20-102.

(c) An administrative unit, a state-operated program, or an approved facility school that provides plans, programs, or services that do not comply with the rules adopted by the state board will be provided by the department with a detailed analysis of any discrepancies noted along with specific recommendations for their correction. Applicable federal and state funding will be provided or continued for a reasonable period of time, as determined by the department, to allow the administrative unit, state-operated program, or approved facility school an opportunity to comply with such rules.

(2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this part 1, the state board shall appoint a state special education advisory committee of an appropriate size. The members of the advisory committee shall be representative of the state population and shall be composed of persons involved in or concerned with the education of children with disabilities, including parents of children with disabilities ages birth through twenty-six years; individuals with disabilities; teachers; representatives of institutions of higher education that prepare special education and related services personnel; state and local education officials, including officials who carry out activities under section 22-33-103.5; administrators of programs for children with disabilities; representatives of other state agencies involved in the financing or delivery of related services to children with disabilities; representatives of private schools, district charter schools, and institute charter schools; at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children

with disabilities; a representative from child welfare services in the department of human services established pursuant to section 26-5-102, C.R.S.; and representatives from the division of youth corrections in the department of human services and from the department of corrections. A majority of the members of the advisory committee shall be individuals with disabilities or parents of children with disabilities. Members shall be appointed for terms as determined by the by-laws of the advisory committee. Any additions to the composition of the advisory committee shall be made pursuant to the procedures of the state board.

(b) (Deleted by amendment, L. 91, p. 694, § 6, effective April 20, 1991.)

(3) Repealed.

(4) To comply with this section, the department shall maintain a special education data and information system on children, personnel, costs, and revenues, and such data and information shall be used to ensure that state moneys provided to administrative units under the provisions of section 22-20-106 and other applicable revenues are being spent only on special education expenditures.

(5) and (6) Repealed.

(7) (a) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 4, effective August 10, 2011.)

(b) Repealed.

**Source:** L. 73: R&RE, p. 1260, § 1. C.R.S. 1963: § 123-22-4. L. 77: (2) amended and (5) and (6) added, pp. 1067, 1068, §§ 12, 13, effective July 1. L. 79: (1) amended, p. 776, § 4, effective July 1. L. 86: (2) amended, p. 412, § 17, effective March 26. L. 88: (7) added, p. 809, § 5, effective May 25. L. 90: (5) amended, p. 1045, § 2, effective July 1. L. 91: (2) amended, p. 694, § 6, effective April 20. L. 93: (1), (2)(a), (3), (5), and (6) amended, p. 1641, § 31, effective July 1. L. 94: (2)(a) amended, p. 2689, § 215, effective July 1; (3) and (4) amended and (5) and (6) repealed, p. 1142, §§ 3, 4, 5, effective July 1. L. 95: (7)(a) amended, p. 1100, § 23, effective May 31. L. 96: (7)(b) repealed, p. 1232, § 62, effective August 7. L. 98: (2)(a) amended, p. 113, § 1, effective March 23; (3) repealed, p. 1075, § 2, effective June 1. L. 2004: (1) and (4) amended, p. 1625, § 23, effective July 1. L. 2006: (1), (2)(a), and (4) amended, p. 320, § 3, effective August 7. L. 2007: (1)(a) and (1)(b) amended, p. 1556, § 3, effective May 31; (1)(a)(IX) and (1)(a)(X) amended and (1)(a)(XI) added, p. 1764, § 5, effective July 1. L. 2008: (1)(a)(XI) amended, p. 1897, § 72, effective August 5. L. 2011: (1), (2)(a), and (4) amended, (HB 11-1277), ch. 306, p. 1483, § 12, effective August 10; (1)(a), (1)(b), (2)(a), and (7)(a) amended, (HB 11-1077), ch. 30, p. 75, § 4, effective August 10.

**Editor's note:** (1) Amendments to subsection (1)(a) by House Bill 07-1244 and Senate Bill 07-255 were harmonized.

(2) Amendments to subsections (1) and (2)(a) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1994 act amending subsections (3) and (4) and repealing subsections (5) and (6), see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act repealing subsection (7)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

## ANNOTATION

**The board is authorized to exercise quasi-legislative and quasi-judicial powers.** Although the state board of education is an administrative agency of the state, the statutes under which the board administers the special education program authorize the board to exercise quasi-legislative and quasi-judicial powers.

Flemming v. Adams, 377 F.2d 975 (10th Cir. 1967), cert. denied, 389 U.S. 898, 88 S. Ct. 219, 19 L. Ed. 2d 216 (1967).

**Such as prescribing rules and regulations.** The act vests administration in the board and empowers it to prescribe rules and regulations for establishing special education programs in



local school districts. Flemming v. Adams, 377 F.2d 975 (10th Cir. 1967), cert. denied, 389 U.S. 898, 88 S. Ct. 219, 19 L. Ed. 2d 216 (1967).

**22-20-104.5. Plan for academic excellence - inclusion of gifted children - cooperation - rules. (Repealed)**

**Source:** **L. 88:** Entire section added, p. 809, § 4, effective May 24. **L. 94:** (3) added, p. 1142, § 6, effective July 1. **L. 96:** (4) added, p. 1800, § 23, effective June 4. **L. 2001:** (4) amended, p. 361, § 28, effective April 16. **L. 2006:** (1) amended, p. 322, § 4, effective August 7; (4) amended, p. 598, § 12, effective August 7. **L. 2007:** (1) amended, p. 1764, § 3, effective July 1. **L. 2008:** (1) amended and (1.5) and (5) added, p. 775, § 2, effective May 14. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1532, § 18, effective May 21. **L. 2011:** Entire section repealed, (HB 11-1077), ch. 30, p. 77, § 5, effective August 10.

**Cross references:** For the legislative declaration contained in the 1994 act adding subsection (3), see section 1 of chapter 198, Session Laws of Colorado 1994.

**22-20-105. Depository and retrieval network for visually and hearing impaired children. (Repealed)**

**Source:** **L. 73:** R&RE, p. 1260, § 1. **C.R.S. 1963:** § 123-22-5. **L. 93:** Entire section amended, p. 1642, § 32, effective July 1. **L. 2006:** Entire section repealed, p. 322, § 5, effective August 7.

**22-20-105.5. Statewide information and communication network. (Repealed)**

**Source:** **L. 88:** Entire section added, p. 809, § 4, effective May 24.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1993. (See L. 88, p. 809.)

**22-20-106. Special education programs - early intervening services - rules.**  
(1) (a) By September 1, 1973, every school district in the state shall be either an administrative unit in itself or in a board of cooperative services which shall be designated as an administrative unit.

(b) The state charter school institute shall be an administrative unit for the purpose of delivering special education services to all institute charter schools and shall meet the criteria established by the state board governing the duties and responsibilities of the director of special education. An administrative unit shall also be a school district or board of cooperative services that meets criteria established by the state board governing the duties and responsibilities of the director of special education and is either a board of cooperative services that conducts special education programs for all school districts that are members of the board of cooperative services or is a school district that meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education.

(c) Although the state board shall define the qualifications and the general duties and responsibilities of directors of special education, such directors shall be regarded for all purposes as employees of their local administrative units and subject to the administrative direction of such units.

(2) (a) Each administrative unit, state-operated program, and approved facility school shall submit a comprehensive plan to the department pursuant to the rules promulgated by the state board indicating how the administrative unit, state-operated program, or approved facility school will provide for the education of all children with disabilities. Each comprehensive plan shall include the type and number of children with disabilities served, the services to be provided, and the estimated resources necessary.

(b) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 77, § 6, effective August 10, 2011.)

(3) (a) Each administrative unit, state-operated program, and approved facility school shall make available special education services as specified by the IEP for any child with a disability for whom it is responsible, as defined by the rules adopted by the state board pursuant to this part 1. General education services are the responsibility of the school district in which a foster home is located, and special education services are the responsibility of the administrative unit in which a foster care home is located. General education services are the responsibility of the school district in which a group home is located, and special education services are the responsibility of the administrative unit in which a group home is located. The administrative unit in which the group home is located may seek tuition costs consistent with section 22-20-109 (2.5).

(b) In providing special education services, an administrative unit, state-operated program, or approved facility school may pay for special education expenditures as defined in section 22-20-103 (22.7).

(c) The district of residence shall pay the tuition costs for a child with a disability in an approved facility school pursuant to sections 22-20-108 (8) and 22-20-109 (1). Special education services may be provided by community centered boards in cooperation with administrative units.

(3.5) (a) An administrative unit may provide early intervening services to a student who is not identified as a child with a disability at the time the early intervening services are provided. An administrative unit may provide early intervening services to students in kindergarten through grade twelve, with an emphasis on students in kindergarten through grade three.

(b) Early intervening services may include programs and activities, including response to intervention, as determined by the state board and set forth in rules promulgated by the state board pursuant to this subsection (3.5).

(c) An administrative unit may annually use no more than fifteen percent of the funding amount that the administrative unit annually receives pursuant to this part 1 for the provision of early intervening services.

(d) Each participating administrative unit shall collect information and report to the department, on an annual basis, the uniquely identifying student numbers of the students receiving early intervening services pursuant to this subsection (3.5).

(e) Nothing in this subsection (3.5) shall be construed to create a right for a student to receive early intervening services nor act to improperly delay the determination, pursuant to section 22-20-108, that a child has a disability and is eligible for special education services.

(f) The state board by rule shall identify the programs and activities that qualify as early intervening services and the allowable expenses related to those programs and activities. The state board may also promulgate such other rules as may be necessary to implement this subsection (3.5).

(4) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain special education programs for the education of exceptional children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or an administrative unit having fewer than six children who need a particular kind of special education program may purchase services from one or more administrative units where an appropriate special education program exists.

(5) Each administrative unit shall employ a director of special education. Each state-operated program or approved facility school shall employ or contract in writing for a director of special education. A director of special education shall meet qualification standards promulgated by rule of the state board.

(6) Each administrative unit, state-operated program, and approved facility school shall employ or contract in writing for a sufficient number of appropriately licensed and endorsed special education teachers and staff to adequately carry out those functions for which it is responsible, as defined by the rules promulgated by the state board pursuant to this article, including but not limited to child identification, IEP development, and professional development for school staff.



(7) Any administrative unit or state-operated program planning to utilize federal funds from any source for the education of children with disabilities as provided in this article shall obtain prior approval from the department for the use of such funds. The use of such funds in the administrative unit or state-operated program shall be for special education expenditures as defined in section 22-20-103 (22.7) and in accordance with rules as established by the state board, which are not in conflict with federal law or regulations.

(8) Nothing in this section shall be construed to change the purpose and function of the Colorado school for the deaf and the blind in Colorado Springs or to change the requirements or standards for admission thereto.

(9) (Deleted by amendment, L. 2006, p. 323, § 6, effective August 7, 2006.)

(10) Repealed.

**Source:** **L. 73:** R&RE, p. 1260, § 1. **C.R.S. 1963:** § 123-22-6. **L. 76:** (3) amended, p. 564, § 1, effective July 1. **L. 77:** (6) R&RE, p. 1038, § 1, effective May 14. **L. 79:** (6) amended, p. 780, § 1, effective June 21; (2) to (4) amended, p. 777, § 1, effective July 1. **L. 90:** (9) and (10) added, p. 1088, § 58, effective May 31; (2) and (3) amended and (9) and (10) added, p. 1045, § 3, effective July 1. **L. 93:** (2), (3), (6), (7), and (9) amended, p. 1642, § 33, effective July 1. **L. 94:** (3) and (6) amended, p. 1143, § 7, effective July 1. **L. 98:** (10) repealed, p. 1075, § 3, effective June 1. **L. 2000:** (6) amended, p. 1854, § 50, effective August 2. **L. 2004:** (1), (2), and (3) amended, p. 1625, § 24, effective July 1. **L. 2006:** Entire section amended, p. 323, § 6, effective August 7; (5) amended, p. 598, § 13, effective August 7. **L. 2007:** (3)(a) amended, p. 1764, § 4, effective July 1. **L. 2008:** (3.5) added, p. 624, § 2, effective July 1. **L. 2011:** (1)(b), (2)(b), (3)(a), (3)(c), and (4) amended, (HB 11-1077), ch. 30, p. 77, § 6, effective August 10; (2)(a)(I), (3), (5), (6), and (7) amended, (HB 11-1277), ch. 306, p. 1484, § 13, effective August 10.

**Editor's note:** (1) Subsection (9) was added in House Bill 90-1314. That subsection was superseded by the addition of subsection (9) in House Bill 90-1137.

(2) Amendments to this section by Senate Bill 06-118 and Senate Bill 06-137 were harmonized.

(3) Amendments to subsection (3)(a) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

(4) Subsection (3.5) (c) was amended by House Bill 11-1077 in 2011; however, section 6 of House Bill 11-1077 incorrectly identified the provision as subsection (3) (c) in the amending clause and failed to include the subsection (3.5) designation before the amended paragraph (c).

**Cross references:** For the legislative declaration contained in the 1994 act amending subsections (3) and (6), see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act enacting subsection (3.5), see section 1 of chapter 177, Session Laws of Colorado 2008.

**22-20-107. Authority to contract with institutions of higher education or community centered boards.** (1) An administrative unit may contract with an institution of higher education, or a community centered board, as provided in section 27-10.5-104, C.R.S., for the provision by the administrative unit of an education and training program for children with disabilities. If an agreement is arrived at by the two agencies, the administrative unit shall place the responsibility for administering the program with the director of special education of the administrative unit.

(2) Repealed.

**Source:** **L. 73:** R&RE, p. 1262, § 1. **C.R.S. 1963:** § 123-22-7. **L. 77:** (2) amended, p. 1040, § 1, effective May 26. **L. 85:** Entire section amended, p. 1014, § 40, effective July 1. **L. 93:** Entire section amended, p. 1643, § 34, effective July 1. **L. 94:** (2) repealed, p. 1143, § 8, effective July 1. **L. 2011:** (1) amended, (HB 11-1277), ch. 306, p. 1486, § 14, effective August 10.

**Cross references:** For the legislative declaration contained in the 1994 act repealing subsection (2), see section 1 of chapter 198, Session Laws of Colorado 1994.

**22-20-107.5. District of residence of a child with a disability - jurisdiction.**

(1) Notwithstanding the provisions of section 22-1-102 (2), for the purposes of this article the district of residence of a child with a disability is the school district in which such child lives on a day-to-day basis, including a child placed in a foster home pursuant to section 19-1-115.5 (1), C.R.S.; except that:

(a) If a child with a disability is homeless, as defined by section 22-1-102.5, the provisions of section 22-1-102 (2) (h) shall apply;

(b) The child shall be deemed to reside where the child's parent resides if the child is living at one of the following:

(I) A regional center that is operated by the department of human services;

(II) A facility;

(III) A group home;

(IV) A mental health institute operated by the department of human services; or

(V) The Colorado school for the deaf and the blind;

(c) If a child lives in a regional center, a mental health institute, a facility, or a group home, and the district of residence cannot be determined due to the inability to locate a parent or due to the homelessness of a parent, the child shall be considered a resident of the school district in which the regional center, mental health institute, facility, or group home is located.

(2) If there is a dispute as to which school district constitutes the district of residence, the commissioner of education shall have the authority to determine questions of residency and thus jurisdiction after reviewing necessary details involved in the determination of residency.

**Source:** **L. 81:** Entire section added, p. 1055, § 3, effective June 10. **L. 83:** Entire section amended, p. 1159, § 14, effective April 26. **L. 84:** Entire section amended, p. 590, § 1, effective March 5. **L. 90:** Entire section amended, p. 1041, § 3, effective April 3. **L. 91:** Entire section amended, p. 1144, § 9, effective May 18. **L. 93:** Entire section amended, p. 1644, § 35, effective July 1. **L. 94:** Entire section amended, p. 650, § 1, effective April 14; entire section amended, p. 2616, § 25, effective July 1. **L. 2006:** Entire section amended, p. 325, § 7, effective August 7. **L. 2011:** (1) amended, (HB 11-1277), ch. 306, p. 1486, § 15, effective August 10.

**Editor's note:** Amendments to this section in Senate Bill 94-185 and House Bill 94-1029 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-20-108. Determination of disability - enrollment.** (1) (a) The determination that a child has a disability and is eligible for special education services shall be made by a multidisciplinary team that shall include, at a minimum, the parent of the child and professionally qualified personnel designated by the responsible administrative unit or state-operated program. The composition of the multidisciplinary team and the procedures to be used for determining a child's eligibility for special education services shall be prescribed by rules promulgated by the state board pursuant to this part 1.

(b) The development of an IEP for a child with a disability and determination of educational placement shall be made by the child's IEP team, including but not limited to the child's parent and qualified professional personnel designated by the responsible administrative unit or state-operated program. The composition of the IEP team and the procedures to be used for developing the child's IEP shall be prescribed by rules promulgated by the state board pursuant to this part 1.

(2) (Deleted by amendment, L. 2006, p. 325, § 8, effective August 7, 2006.)

(3) (a) In the event of a dispute between the parents of a child with a disability and an administrative unit or state-operated program, the parents or the administrative unit or state-operated program shall have the same rights to an impartial due process hearing as are provided in the IDEA and the federal regulations, 34 CFR part 300, implementing the act.



To request a due process hearing, the parents of a child with a disability or the administrative unit or state-operated program shall simultaneously file complete copies of the due process complaint with the opposing party and with the commissioner of education or his or her designee to ensure the timely assignment of an impartial hearing officer.

(b) If a due process hearing is requested pursuant to paragraph (a) of this subsection (3), the department shall provide the hearing in compliance with the requirements and provisions of IDEA and the federal regulations, 34 CFR part 300, implementing the act, including but not limited to the requirements governing due process complaints, resolution meetings, impartial due process hearing procedures, hearing rights, timelines, hearing decisions, and civil actions.

(c) The findings and decision made by the department shall be final. Any party aggrieved by the department's findings and decision has the right to bring a civil action pursuant to the provisions of IDEA and the federal regulations, 34 CFR 300.516 (a), implementing the act.

(4) Each child determined to have a disability by the multidisciplinary team pursuant to paragraph (a) of subsection (1) of this section shall be provided with an IEP developed by the child's IEP team pursuant to paragraph (b) of subsection (1) of this section and shall be reviewed annually. The IEP for each child enrolled in a school district or an institute charter school shall specify whether the child shall achieve the content standards adopted by the district in which the child is enrolled or by the state charter school institute or whether the child shall achieve individualized standards which would indicate the child has met the requirements of his or her IEP. For each child attending school in an approved facility school or state-operated program, the IEP shall specify whether the child shall achieve state or local content standards, or whether the child shall achieve individualized standards which would indicate that the child has met the requirements of his or her IEP. When a child with a disability is to be placed outside of the district of residence, the receiving agency, institution, administrative unit, state-operated program, or approved facility school providing the special education services shall cooperate in the development of the IEP. The IEP shall be coordinated with all individual plans required by other federal or state programs in order to provide for maximum coordination of service to the child with a disability, which may include the provision of appropriate special education services for the child with a disability, by agreement or contract with public agencies, nonprofit organizations, or approved facility schools. Any court of record, the department of human services, or any other public agency authorized by law to place a child in a facility shall notify in writing the child's administrative unit of residence, the administrative unit in which the child will receive special education services, and the department of such placement within fifteen calendar days after the placement. An administrative unit of residence that disapproves of the placement shall do so in writing pursuant to subsection (8) of this section.

(4.5) (a) In developing the IEP pursuant to subsection (4) of this section for a child who is blind or visually impaired, in addition to any other requirements established by the state board, the IEP team shall assess and determine which literacy mode or modes would be most appropriate for the child's instruction. The IEP for a child who is blind or visually impaired shall specify the following:

(I) How the selected literacy mode or modes will be implemented as the child's primary or secondary mode for achieving literacy and why such mode or modes have been selected;

(II) How the child's instruction in the selected literacy mode or modes will be integrated into educational activities;

(III) The date on which the child's instruction in the selected mode or modes shall commence, the amount of instructional time to be dedicated to each literacy mode, and the service provider responsible for each area of instruction; and

(IV) The level of competency in the selected literacy mode or modes which the child should achieve by the end of the period covered by the IEP.

(b) A child who is blind or visually impaired shall not be denied the opportunity for instruction in braille solely because the child has some remaining vision. Any child for whom instruction in braille is determined to be beneficial shall receive such instruction as part of such child's IEP.

(c) If the IEP team determines that a child's IEP shall include instruction in braille, such instruction shall be sufficient to enable the child to read and write effectively and efficiently at a level commensurate with the child's sighted peers of comparable physical and cognitive abilities and grade level.

(d) If the IEP team determines that a child's IEP shall include instruction in braille, the child shall receive such instruction from a teacher who can demonstrate competence in reading and writing braille according to standards to be established by the state board.

(e) Nothing in this subsection (4.5) shall require an administrative unit, a state-operated program, or an approved facility school to expend additional resources or hire additional personnel to implement the provisions of this section.

(f) The department shall develop guidelines for caseload management for instructors of children who are blind or visually impaired in the schools of the administrative units. Such guidelines will evaluate how much instructional time should be allotted for children who are blind or visually impaired, will reflect the varying levels of severity of such children's needs, and will be renewed and updated on a periodic basis to incorporate current research and practice.

(4.7) (a) In developing an IEP pursuant to subsection (4) of this section for a child who is deaf or hard of hearing, in addition to any other requirements established by the state board, the IEP team shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The IEP team shall consider the child's specific communication needs and, to the extent possible under paragraph (g) of this subsection (4.7), address those needs as appropriate in the child's IEP. In considering the child's needs, the IEP team shall expressly consider the following:

(I) The child's individual communication mode or language;

(II) The availability to the child of a sufficient number of age, cognitive, and language peers of similar abilities;

(III) The availability to the child of deaf or hard-of-hearing adult models of the child's communication mode or language;

(IV) The provision of appropriate, direct, and ongoing language access to teachers of the deaf and hard of hearing and educational interpreters and other specialists who are proficient in the child's primary communication mode or language; and

(V) The provision of communication-accessible academic instruction, school services, and extracurricular activities.

(b) To enable a parent to make informed decisions concerning which educational options are best suited to the parent's child, all of the educational options provided by the administrative unit, state-operated program, or approved facility school and available to the child at the time the child's IEP is prepared shall be explained to the parent.

(c) A child who is deaf or hard-of-hearing shall not be denied the opportunity for instruction in a particular communication mode or language solely because:

(I) The child has some remaining hearing;

(II) The child's parents are not fluent in the communication mode or language being taught; or

(III) The child has previous experience with some other communication mode or language.

(d) Nothing in this subsection (4.7) shall preclude instruction in more than one communication mode or language for any particular child. Any child for whom instruction in a particular communication mode or language is determined to be beneficial shall receive such instruction as part of the child's IEP.

(e) Notwithstanding the provisions of subparagraph (II) of paragraph (a) of this subsection (4.7), nothing in this subsection (4.7) may be construed to require that a specific number of peers be provided for a child who is deaf or hard of hearing.

(f) Nothing in this subsection (4.7) shall abrogate parental choice among public educational programs as provided in section 22-20-109 or article 30.5 or 36 of this title or as otherwise provided by law.

(g) Nothing in this subsection (4.7) shall require an administrative unit to expend additional resources or hire additional personnel to implement the provisions of this subsection (4.7).



(5) In formulating recommendations for the least restrictive environment for a child with a disability, the IEP team shall:

(a) Determine, utilizing guidelines recommended by the department, whether the nature or severity of the child's disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily or, when provided with supplementary aids and services, the nature or severity of the child's disability is so disruptive that the education of other children in such classes would be significantly impaired;

(b) Work cooperatively with the department of human services, when applicable; and

(c) Be guided by the legislative declaration contained in section 22-20-102.

(5.5) The administrative unit or state-operated program shall consider the cost to the administrative unit or state-operated program when choosing between two or more appropriate educational placements.

(6) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 78, § 7, effective August 10, 2011.)

(7) (a) If an out-of-district placement by an administrative unit appears to be necessary, it is the responsibility of the child's IEP team of the administrative unit of residence to determine whether the child requires a more restrictive setting based on the unique needs of the child. It is the responsibility of the special education director of the administrative unit of residence to place the child in the least restrictive environment consistent with the educational placement decision of the IEP team.

(b) If it becomes necessary for a court or public agency to place a child in a public placement:

(I) Prior to such public placement, the court or public agency shall work cooperatively with the affected administrative unit or units, as defined by rules promulgated by the state board pursuant to this article, to ensure that appropriate special education services are available for the child;

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), the court or public agency may make the public placement without first cooperating with the affected administrative unit or units if an emergency public placement is required for the child.

(c) In no event shall the public agency place a child in an administrative unit or approved facility school that is unable to ensure the provision of special education services that are appropriate for the child. The costs of educating the child shall be the responsibility of the school district of residence, and the school district shall pay tuition costs in accordance with section 22-20-109.

(8) Notwithstanding the provisions of paragraph (c) of subsection (7) of this section, if a court or public agency makes a public placement but fails to comply with the notification requirements of subsection (4) of this section, the court or public agency shall be responsible for the tuition costs for the child until such time as the required notification is made. If a child's administrative unit of residence does not provide written notice of disapproval of a placement in a facility by a court or a public agency within fifteen calendar days after the notification made pursuant to subsection (4) of this section, the placement shall be deemed to be approved. An administrative unit of residence may disapprove a placement in a facility by a court or public agency only on the basis of the unavailability of appropriate special education services in the administrative unit in which the child will be placed. If the administrative unit of residence disapproves the placement in the facility, it shall ensure that the child receives a free appropriate public education until an appropriate placement can be determined. If the administrative unit of residence disapproves the placement in the facility, the disapproval shall be subject to appeal as provided for in subsection (3) of this section.

(9) If a teacher of a child with a disability determines that the child's presence in a general education classroom is so disruptive that other children's learning in the class is significantly impaired, the teacher may utilize the district's or the state charter school institute's regular in-school disciplinary procedure unless it would be inconsistent with the child's IEP or with the IDEA's student discipline protections for children with disabilities. Alternatively, the teacher may request a review of the child's IEP, behavior plan, or both to consider changes in services or educational placement. In making any such determination

for educational placement or a plan of discipline for the child, the IEP team shall apply the rules promulgated by the state board regarding IEP reviews and school discipline procedures and protections for children with disabilities as specified by the IDEA and its implementing regulations.

(10) (Deleted by amendment, L. 2006, p. 325, § 8, effective August 7, 2006.)

**Source:** L. 73: R&RE, p. 1262, § 1. C.R.S. 1963: § 123-22-8. L. 76: (1) amended, p. 564, § 2, effective July 1. L. 79: (6) added, p. 778, § 6, effective July 1. L. 81: (3) and (4) R&RE and (7) added, pp. 1055, 1056, §§ 4, 5, effective June 10. L. 83: (4) and (7) amended and (8) added, p. 739, § 2, effective June 10. L. 87: (3) amended, p. 956, § 60, effective March 13; (7)(b) amended, p. 826, § 2, effective May 16. L. 93: (4) amended, p. 1047, § 4, effective June 3; (1), (3)(a), (4), (5), and (7)(b) amended, p. 1645, § 36, effective July 1. L. 94: (1), (2), (3)(a), and (4) amended and (4.5) added, p. 915, § 2, effective July 1; (5) amended, p. 2690, § 216, effective July 1. L. 96: (4.7) added, p. 41, § 3, effective March 18. L. 97: (1) and (5) amended and (9) added, p. 423, § 2, effective July 1. L. 98: (10) added, p. 964, § 3, effective May 27. L. 2004: (1), (3), (4), (4.5)(e), (4.5)(f), (4.7)(b), (4.7)(g), (5)(d), (7)(a), (9), and (10) amended, p. 1626, § 25, effective July 1. L. 2006: Entire section amended, p. 325, § 8, effective August 7. L. 2011: (3) amended, (SB 11-061), ch. 40, p. 106, § 1, effective July 1; (1), (3)(a), and (6) amended, (HB 11-1077), ch. 30, p. 78, § 7, effective August 10; (1)(b), (4), (4.5)(e), (4.7)(a)(IV), (4.7)(b), IP(5), (5.5), (7), (8), and (9) amended, (HB 11-1277), ch. 306, p. 1487, § 16, effective August 10.

**Editor's note:** (1) Amendments to subsection (4) in Senate Bill 93-242 and House Bill 93-1313 were harmonized.

(2) Subsection (3)(a) was amended by House Bill 11-1077, effective August 10, 2011. However, those amendments were superseded by the amendments to subsection (3) by Senate Bill 11-061, effective July 1, 2011.

(3) Amendments to subsection (1) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (5), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act enacting subsection (4.7), see section 1 of chapter 14, Session Laws of Colorado 1996.

## ANNOTATION

**Enactment of this act placed the responsibility for providing and paying for special education for handicapped children on the school district of their residence** thereby relieving the department of social services of any obligations it might have had prior to the effective date of the act. A.C.B. v. Denver Dept. of Soc. Servs., 725 P.2d 94 (Colo. App. 1986).

**Standard for adequate notice.** Although subsection (8) does not define what "notifica-

tion" shall consist of nor any standard for determining adequacy, notice is adequate if it is reasonably calculated, under all the circumstances surrounding a given proceeding, to apprise all interested parties of the action at issue and to afford them an opportunity to present their objections. People in Interest of J.L.L., 742 P.2d 349 (Colo. App. 1987).

**Notice not adequate.** People in Interest of J.L.L., 742 P.2d 349 (Colo. App. 1987).

**22-20-109. Tuition - rules.** (1) (a) An administrative unit of residence may contract with another administrative unit or an approved facility school to provide a special education program for a child with a disability. An administrative unit may purchase services from one or more administrative units where an appropriate special education program exists. The two administrative units shall negotiate a contract, including but not limited to the cost of the special education program, that need not be approved by the department.

(b) An administrative unit may contract for special education services with an approved facility school pursuant to rules promulgated by the state board.

(2) (a) When a child with a disability is publicly placed in an approved facility school, the approved facility school shall document to the department a list of costs of providing the



special education program and the applicable revenues. Notwithstanding any provision of section 22-32-115 to the contrary, the tuition charge for educating a child with a disability in an approved facility school shall be established by the department and approved by the state board. The tuition charge shall be the maximum amount the school district of residence shall be obligated to pay for the special education program; except that the school district of residence may pay a higher tuition charge than the charge established and approved pursuant to this subsection (2) for a student in need of specialized services, which services were included in the student's IEP but were not included in the tuition charge established pursuant to this subsection (2).

(b) The state board shall promulgate rules to define the contract approval process and the method for determining the tuition rate that a school district of residence of a child with a disability shall pay as tuition to educate that child at an approved facility school. The rules for determining a tuition rate shall include, but need not be limited to, the limitations on the number of staff members per number of students, the number of school days, all special education expenditures as defined in section 22-20-103 (22.7) and specified by the child's IEP, other education costs, and applicable revenues associated with the approved facility school's educational program. The rules shall not require that, in calculating the amount of the tuition charge for educating a child with a disability in an approved facility school, the costs incurred by the approved facility school in providing the special education program be reduced by the amount of revenues, if any, received by the approved facility school as donations or special education grants. The school district of residence shall be responsible for paying as tuition any excess costs above the state average per pupil revenues to provide these services pursuant to section 22-54-129 (2).

(c) In addition to any other tuition costs that a school district of residence is required to pay pursuant to this section, the school district may pay those costs documented to and approved by the department pursuant to this subsection (2). Notwithstanding the provisions of this subsection (2), a school district of residence shall not be required to pay costs incurred by an approved facility school in providing educational services at the approved facility school during the months of June, July, or August.

(2.5) (a) When a child with a disability is placed out of the home in a group home and attends school in an administrative unit other than the child's administrative unit of residence and the school does not provide the child with an on-line program or on-line school pursuant to article 30.7 of this title, the district of residence shall be responsible for paying the tuition charge for educating the child to the administrative unit of attendance.

(b) The administrative unit of attendance shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II).

(c) The administrative unit of attendance shall provide notice to the administrative unit of residence and to the district of residence, if it is not an administrative unit, in accordance with the rules adopted pursuant to paragraph (b) of subsection (2) of this section when a child with a disability applies to enroll in a school of the district of attendance. The notice shall be in writing and shall also be sent to the special education directors for the administrative units of residence and of attendance. If the administrative unit of attendance does not intend to seek tuition costs, notification is not required. The state board shall adopt rules to specify the content, manner, and timing of the notice required pursuant to this paragraph (c).

(d) The amount of the tuition charge shall be determined pursuant to a contract entered into by the administrative unit of attendance, the district of attendance if it is not an administrative unit, the administrative unit of residence, and the district of residence if it is not an administrative unit.

(3) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(4) (a) When a child with a disability enrolls and attends a school in an administrative unit other than the child's administrative unit of residence pursuant to the provisions of section 22-36-101, and the school does not provide the child an on-line program or on-line school pursuant to article 30.7 of this title, the district of residence shall be responsible for paying the tuition charge for educating the child to the administrative unit of attendance.

(b) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(c) The administrative unit of attendance shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II).

(d) The administrative unit of attendance shall provide notice to the administrative unit of residence and to the district of residence, if it is not an administrative unit, in accordance with the rules adopted pursuant to this paragraph (d) when a child with a disability applies to enroll in a school of the district of attendance. The notice shall be in writing and shall also be sent to the special education directors for the administrative units of residence and of attendance. If the administrative unit of attendance does not intend to seek tuition costs, notification is not required. The state board shall adopt rules to specify the content, manner, and timing of the notice required pursuant to this paragraph (d).

(e) The amount of the tuition charge shall be determined pursuant to a contract entered into by the administrative unit of attendance, the district of attendance if it is not an administrative unit, the administrative unit of residence, and the district of residence if it is not an administrative unit. Under the circumstances described in this subsection (4), the provisions of section 22-20-108 (8) shall not apply.

(5) (a) When a child with a disability enrolls in and attends a district charter school pursuant to the provisions of part 1 of article 30.5 of this title or an institute charter school pursuant to part 5 of article 30.5 of this title, including a district or institute charter school that provides an on-line program or operates as an on-line school pursuant to article 30.7 of this title, the district of residence shall be responsible for paying to the district or institute charter school the tuition charge for the excess costs incurred in educating the child.

(b) Nothing in this subsection (5) shall be construed to apply to the charter contract entered into between a charter school and the chartering local board of education pursuant to part 1 of article 30.5 of this title or to allow a charter school to seek tuition costs from its chartering authority.

(c) The district or institute charter school shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II).

(d) The district or institute charter school shall provide notice to the administrative unit of residence, the district of residence if it is not an administrative unit, and the administrative unit of attendance in accordance with state board rules adopted pursuant to subsection (7) of this section when a child with a disability applies to enroll in the district or institute charter school. The notice shall be in writing and shall be sent to the special education directors for the administrative units of residence and of attendance. If the district or institute charter school does not intend to seek tuition costs, no notification is required.

(e) The amount of the tuition charged shall be determined pursuant to rules adopted by the state board pursuant to subsection (7) of this section. The tuition responsibility shall be reflected in a contract between the charter school, the administrative unit of residence, the district of residence if it is not an administrative unit, the administrative unit of attendance including the state charter school institute, and the chartering school district if it is not an administrative unit. The contract shall be in a form approved by the chartering entity. Under the circumstances described in this subsection (5), the provisions of section 22-20-108 (8) shall not apply.

(6) (a) When a child with a disability enrolls in and attends an on-line program or on-line school pursuant to article 30.7 of this title that is not provided by a district or institute charter school, the district of residence shall be responsible for paying to the provider of the on-line program or on-line school the tuition charge for the excess costs incurred in educating the child.

(b) The provider of the on-line program or on-line school shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability who receives educational services from the provider of the on-line program or on-line school unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II).

(c) The on-line provider shall provide notice to the administrative unit of attendance, the administrative unit of residence, and the district of residence if it is not an administrative



unit, in accordance with state board rules adopted pursuant to subsection (7) of this section when a child with a disability applies to enroll in the on-line program or on-line school. The notice shall be in writing and shall also be sent to the special education directors for the administrative units of residence and of attendance. If the on-line provider does not intend to seek tuition costs, notification is not required.

(d) The amount of the tuition charge shall be determined pursuant to rules adopted by the state board pursuant to subsection (7) of this section. The tuition responsibility shall be reflected in a contract entered into by the administrative unit of residence, the district of residence if it is not an administrative unit, the administrative unit of attendance, and the district of attendance if it is not an administrative unit. Under the circumstances described in this subsection (6), the provisions of section 22-20-108 (8) shall not apply.

(7) For the 2004-05 budget year and budget years thereafter, the state board shall promulgate rules pertaining to the education of children with disabilities in charter schools and rules pertaining to the education of children with disabilities through on-line programs and on-line schools. Both sets of rules shall include, but need not be limited to, rules to:

(a) Specify the content, manner, and timing of the notice that a charter school or on-line provider shall provide pursuant to subsections (5) and (6) of this section, respectively;

(b) Define the types and amounts of allowable costs in excess of the per pupil funding for the child with a disability, as determined pursuant to article 54 of this title, and any other state and federal revenues received for educating the child, that a charter school, on-line program, or on-line school may charge as tuition to a district of residence;

(c) Define other applicable revenues that a district of residence of a child with a disability shall apply in paying the tuition charge for excess costs incurred in educating the child at a charter school or through an on-line program or on-line school;

(d) Specify the limitations on the number of staff members per number of students that a charter school, on-line program, or on-line school shall provide in educating children with disabilities;

(e) Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(f) and (g) Deleted by amendment, L. 2006, p. 332, § 9, effective August 7, 2006.)

(h) Identify any other expenses involved in the provision of educational services to children with disabilities in accordance with each child's individualized education program;

(i) Establish a dispute resolution process for disagreements resulting from contracts entered into pursuant to subsection (5) or (6) of this section; and

(j) Specify elements to be included in a contract between entities described in subsection (5) of this section.

(8) Repealed.

**Source:** L. 73: R&RE, p. 1263, § 1. C.R.S. 1963: § 123-22-9. L. 77: Entire section amended, p. 1042, § 1, effective July 1. L. 79: Entire section amended, p. 778, § 7, effective July 1. L. 83: Entire section amended, p. 741, § 3, effective June 10. L. 84: Entire section amended, p. 590, § 2, effective March 5. L. 85: Entire section amended, p. 1014, § 41, effective July 1. L. 87: Entire section R&RE, p. 827, § 3, effective May 16. L. 88: (2) amended, p. 810, § 6, effective January 1, 1989. L. 93: (1) and (2) amended, p. 1646, § 37, effective July 1. L. 94: (2) amended, p. 810, § 19, effective April 27; (4) added, p. 1284, § 11, effective May 22; (5) added, p. 1380, § 6, effective May 25; entire section amended, p. 1144, § 9, effective July 1. L. 96: (5) amended, p. 668, § 8, effective May 2; (5) amended, p. 755, § 11, effective May 22. L. 2001: (2) amended, p. 345, § 7, effective April 16. L. 2004: (4) and (5) amended and (6) and (7) added, p. 1394, § 15, effective May 28; (5) amended, p. 1629, § 26, effective July 1. L. 2006: (4)(a), (5)(a), and (6) amended and (8) added, p. 662, § 6, effective April 28; (1), (2), IP(7), (7)(f), and (7)(g) amended, p. 332, § 9, effective August 7. L. 2007: (4)(a), (5)(a), and (6) amended, p. 1087, § 11, effective July 1. L. 2008: (3) amended, p. 1207, § 16, effective May 22; (1) and (2) amended, p. 1386, § 15, effective May 27. L. 2009: (3) amended, (HB 09-1189), ch. 99, p. 370, § 2, effective April 3. L. 2010: (2) amended, (HB 10-1013), ch. 399, p. 1912, § 36,

effective June 10. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10. **L. 2012:** (2.5)(a), (4)(a), (5)(a), (6), IP(7), (7)(b), (7)(c), and (7)(d) amended, (HB 12-1240), ch. 258, p. 1314, § 24, effective June 4.

**Editor's note:** (1) Amendments to subsection (2) by House Bill 94-1001 and House Bill 94-1198 were harmonized. Amendments to subsection (5) by House Bill 96-1293 and Senate Bill 96-77 were harmonized. Amendments to subsection (5) by House Bill 04-1362 and House Bill 04-1397 were harmonized.

(2) Subsection (8)(c) provided for the repeal of subsection (8), effective January 1, 2007. (See L. 2006, p. 662.)

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

## ANNOTATION

**Enactment of this act placed the responsibility for providing and paying for special education for handicapped children on the school district of their residence thereby re-**

lieving the department of social services of any obligations it might have had prior to the effective date of the act. *A.C.B. v. Denver Dept. of Soc. Servs.*, 725 P.2d 94 (Colo. App. 1986).

### 22-20-110. Maintenance. (Repealed)

**Source:** **L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-10. **L. 87:** Entire section repealed, p. 828, § 5, effective May 16.

**22-20-111. Equipment.** An administrative unit, a state-operated program, or an eligible facility may purchase equipment for the instruction or support of children with disabilities.

**Source:** **L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-11. **L. 79:** Entire section amended, p. 778, § 8, effective July 1. **L. 88:** Entire section amended, p. 762, § 2, effective May 31. **L. 93:** Entire section amended, p. 1647, § 38, effective July 1. **L. 94:** Entire section amended, p. 1145, § 10, effective July 1. **L. 2006:** Entire section amended, p. 333, § 10, effective August 7.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994.

**22-20-112. Length of school year.** (1) An administrative unit may conduct special education programs as prescribed in this part 1 for any length of time; except that the administrative unit must meet the minimum length of time as established by law for school districts.

(2) Each administrative unit, state-operated program, and approved facility school shall provide extended school year services to a child with a disability only if the child's IEP team determines that extended school year services are necessary to provide the child with a free appropriate public education.

**Source:** **L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-12. **L. 2006:** Entire section amended, p. 333, § 11, effective August 7. **L. 2008:** (1) amended, p. 1207, § 17, effective May 22. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1495, § 18, effective August 10; (1) amended, (HB 11-1077), ch. 30, p. 78, § 8, effective August 10.

**Editor's note:** Amendments to subsection (1) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 286, Session Laws of Colorado 2008.



**22-20-113. School district report. (Repealed)**

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-13. **L. 94:** Entire section repealed, p. 1145, § 11, effective July 1.

**22-20-114. Funding of programs.** (1) Subject to the provisions of subsection (3) of this section, for the 2005-06 budget year and each budget year thereafter, the total amount appropriated to the department for the payment of costs incurred by administrative units for the provision of special education programs shall be distributed to each administrative unit that provides educational services for children with disabilities as follows:

(a) (I) Five hundred thousand dollars to administrative units that enroll children with disabilities:

(A) For whom tuition is paid by the administrative units for the children to receive educational services at approved facility schools; and

(B) For whom parental rights have been relinquished by the parents or terminated by a court, the parents of whom are incarcerated, the parents of whom cannot be located, the parents of whom reside out of the state but the department of human services has placed the children within the administrative unit, or children with disabilities who are legally emancipated.

(II) The moneys appropriated pursuant to subparagraph (I) of this paragraph (a) shall be distributed in each budget year to administrative units based upon each administrative unit's share of the aggregate number of children with disabilities who are specified in subparagraph (I) of this paragraph (a); except that an administrative unit shall not receive an amount that exceeds the aggregate amount of tuition paid by that administrative unit for the specified children with disabilities to receive educational services at approved facility schools during the immediately preceding budget year. For purposes of this paragraph (a), the number of children with disabilities that are specified in subparagraph (I) of this paragraph (a) shall be based upon the count taken in December of the immediately preceding budget year.

(a.5) (I) For the 2007-08 budget year, two million two hundred thousand dollars to offset the costs incurred by administrative units in conducting child find activities pursuant to section 22-20-118 for children who are less than three years of age but not for children who are less than three years of age who are being reevaluated for services under part B of IDEA. The department shall allocate said moneys among administrative units based on the number of children less than three years of age who were evaluated in each administrative unit during the 2005-06 budget year and who are or may be eligible for early intervention services under part C of IDEA.

(II) (A) For the 2008-09 budget year and for each budget year thereafter, a portion calculated pursuant to sub-subparagraph (B) or (C) of this subparagraph (II) of the total amount of state funds appropriated for the payment of costs incurred by administrative units for the provision of special education programs, to offset the costs incurred by administrative units in conducting child find activities under part C of IDEA pursuant to section 22-20-118 for children who are less than three years of age. For the 2008-09 budget year, the department shall allocate said moneys among administrative units based on the number of children less than three years of age who were evaluated in each administrative unit during the 2005-06 budget year and who are or may be eligible for early intervention services under part C of IDEA. For the 2009-10 budget year and for each budget year thereafter, the department shall allocate said moneys among administrative units based on the number of children less than three years of age who were evaluated in each administrative unit during the preceding budget year and who are or may be eligible for early intervention services under part C of IDEA.

(B) For the 2008-09 budget year, the portion of the appropriation allocated pursuant to sub-subparagraph (A) of this subparagraph (II) shall be calculated as follows:

(The dollar amount allocated per child less than three years of age who was evaluated in the 2005-06 budget year) x (the lesser of the rate of inflation, as defined in section 22-55-102 (7), or the percentage change in the total state funds

appropriated for the provision of special education services over the preceding budget year) x (the total number of children less than three years of age who were evaluated under part C of IDEA by administrative units in the 2005-06 budget year).

(C) For the 2009-10 budget year and for each budget year thereafter, the portion of the appropriation allocated pursuant to sub-subparagraph (A) of this subparagraph (II) shall be calculated as follows:

(The dollar amount allocated per child less than three years of age who was evaluated under part C of IDEA in the preceding budget year) x (the lesser of the rate of inflation, as defined in section 22-55-102 (7), or the percentage change in the total state funds appropriated for the provision of special education services over the preceding budget year) x (the total number of children less than three years of age who were evaluated under part C of IDEA by administrative units in the preceding budget year).

(b) An amount equal to one thousand two hundred fifty dollars for each child with disabilities receiving special education services from the administrative unit; and

(c) (I) If any amount of the total annual appropriation remains after the distributions specified in paragraphs (a), (a.5), and (b) of this subsection (1) have been made, and after the distribution of the portion of the total annual appropriation designated for high cost grants pursuant to subsection (2) of this section has been made, six thousand dollars per child with one or more disabilities, as described in subparagraph (II) of this paragraph (c), for a percentage of such children receiving special education services from the administrative unit. The department shall annually determine the percentage of such children for which an administrative unit may receive additional funding pursuant to this paragraph (c) based on the amount of the remaining appropriation and the per-pupil amount of six thousand dollars.

(II) An administrative unit that provides special education services to children who have one or more of the following disabilities may receive funding pursuant to this paragraph (c):

- (A) A visual impairment, including blindness, as defined by the state board;
- (B) A hearing impairment, including deafness, as defined by the state board;
- (C) Deaf-blindness, as defined by the state board;
- (D) A serious emotional disability as defined by the state board;
- (E) Autism spectrum disorders as defined by the state board;
- (F) A traumatic brain injury as defined by the state board;
- (G) Multiple disabilities as defined by the state board; or
- (H) An intellectual disability as defined by the state board.

(2) (a) (I) In addition to the amount appropriated for distribution pursuant to subsection (1) of this section, for the 2006-07 and 2007-08 budget years, subject to available appropriations, the general assembly shall appropriate two million dollars from the general fund or from any other source to the department to fund grants to administrative units as provided in section 22-20-114.5 for reimbursement of high costs incurred in providing special education services in the preceding budget year.

(II) (A) In addition to the amount appropriated for distribution pursuant to subsection (1) of this section, for the 2008-09 budget year and each budget year thereafter, subject to available appropriations, the general assembly shall appropriate four million dollars from the general fund or from any other source to the department to fund grants to administrative units as provided in section 22-20-114.5 for reimbursement of high costs incurred in providing special education services in the preceding budget year.

(B) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing grants to administrative units for reimbursement for high costs incurred in providing special education services is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.



(b) Any amount received by an administrative unit as a reimbursement pursuant to this subsection (2) shall be in addition to the amount received by the administrative unit pursuant to subsection (1) of this section. The moneys appropriated by the general assembly to the department shall be distributed by the Colorado special education fiscal advisory committee in accordance with section 22-20-114.5.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), for the 2005-06 budget year, the department shall recalculate the distribution of funds to administrative units for providing educational services to children with disabilities as necessary to comply with the provisions of subsection (1) of this section.

(b) Notwithstanding the provisions of subsection (1) of this section, if the application of the provisions of subsection (1) of this section would result in an administrative unit receiving a lesser amount for providing educational services to children with disabilities for the 2005-06 budget year than it would have received under the provisions of this section as they existed prior to April 28, 2006, then the department shall not recalculate the distribution of funds for the administrative unit for the 2005-06 budget year.

(4) An administrative unit shall not receive the amount of funding to which it is entitled under the provisions of subsection (1) of this section unless the administrative unit has provided to the department the data collected concerning special education programs, as required by subsection (6) of this section, including the count of assessed children with disabilities.

(5) Payments made under the provisions of this part 1 shall not affect the amount of other state aid for which an administrative unit may qualify.

(6) Each administrative unit shall be required to collect the data required by the federal government concerning special education programs. Each administrative unit shall provide to the department the data collected concerning special education programs in order to receive the amount of funding to which it is entitled under the provisions of subsection (1) of this section.

**Source:** **L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-14. **L. 74:** (5) amended, p. 366, § 1, effective April 26; (1)(b)(III) amended and (1)(b)(VI) added, p. 365, § 1, effective July 1. **L. 77:** (1)(b)(VII) added, p. 1038, § 2, effective May 14; (1)(b)(V) and (3) amended and (1)(e) R&RE, pp. 1042, 1043, §§ 2, 3, effective July 1; (3) amended, p. 1068, § 14, effective July 1. **L. 79:** IP(1), (1)(c), (1)(d), (3), and (4) amended, p. 778, § 9, effective July 1. **L. 83:** (1)(b)(IV) amended, p. 745, § 1, effective May 17; (1)(b)(V) amended, p. 741, § 4, effective June 10. **L. 84:** (1)(b)(V) amended, p. 591, § 3, effective March 3. **L. 85:** (1)(b)(V) amended, p. 1015, § 42, effective July 1. **L. 88:** (1)(b)(I) repealed, p. 777, § 7, effective May 29; (5) amended and (6) added, p. 764, effective May 29; (1)(c) repealed and (1)(d) R&RE, pp. 763, 762, §§ 4, 3, effective May 31; (6) amended, p. 1439, § 45, effective June 11; (1)(b)(V) amended, p. 810, § 7, effective January 1, 1989. **L. 90:** (5) amended, p. 1046, § 4, effective July 1. **L. 93:** (1)(b)(V), (1)(d), (3)(c), and (5) amended, p. 1647, § 39, effective July 1. **L. 94:** (1)(b)(V) and (5) amended, p. 811, § 20, effective April 27; entire section amended, p. 1138, § 2, effective July 1. **L. 95:** (1)(a) and (1)(b) amended and (1)(b.5) added, p. 606, § 1, effective May 22. **L. 97:** (1)(b.5) amended and (1)(b.7) added, p. 593, § 30, effective April 30. **L. 2000:** (1)(b.8) added, p. 486, § 9, effective April 28. **L. 2004:** (1)(b.7)(II) and (2) amended, p. 1629, § 27, effective July 1. **L. 2006:** Entire section R&RE, p. 664, § 7, effective April 28. **L. 2007:** (1)(a.5) added and (1)(c)(I) amended, p. 1567, § 11, effective May 31. **L. 2008:** (2) amended, p. 1208, § 18, effective May 22; (1)(a) amended, p. 1387, § 16, effective May 27. **L. 2011:** (1)(a) and (1)(c)(II) amended, (HB 11-1277), ch. 306, p. 1496, § 19, effective August 10; (5) amended, (HB 11-1077), ch. 30, p. 78, § 9, effective August 10.

**Editor's note:** Amendments to subsection (3) by Senate Bill 77-138 and House Bill 77-1022 were harmonized. Subsections (1)(b)(V) and (5) were amended in House Bill 94-1001. Those amendments were superseded by the amendment of the entire section in House Bill 94-1198.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-20-114.5. Special education fiscal advisory committee - special education high-cost grants - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the Colorado special education fiscal advisory committee created in subsection (2) of this section.

(b) "High costs" means the costs incurred by an administrative unit above a threshold amount determined pursuant to paragraph (e) of subsection (3) of this section in providing special education services, either directly or by contract, to a child with disabilities regardless of the child's district of residence.

(c) Repealed.

(2) (a) There is hereby created the Colorado special education fiscal advisory committee in the department. The committee shall consist of twelve members as follows:

(I) A representative from the unit in the department responsible for the administration of special education programs;

(II) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1497, § 20, effective August 10, 2011.)

(III) A special education director from a board of cooperative services with expertise in special education finance selected by the state board based on a recommendation from the statewide association that represents boards of cooperative services;

(IV) A business official from a small rural administrative unit to be selected by the state board based on a recommendation from a statewide association of school executives;

(V) A business official from a large urban or suburban administrative unit to be selected by the state board based on a recommendation from a statewide association of school executives; and

(VI) Eight special education specialists with appropriate statewide geographic representation to be selected by the state board based on recommendations from a statewide consortium of special education directors.

(b) The members of the committee shall serve without compensation but shall be reimbursed by the department for any necessary expenses incurred in the conduct of their official duties on the committee.

(c) This subsection (2) is repealed, effective July 1, 2016. Prior to its repeal, the committee shall be reviewed as provided in section 2-3-1203, C.R.S.

(3) (a) An administrative unit that incurs high costs in providing special education services to a child with disabilities may apply for a high cost grant to recover all or a portion of such high costs. To receive a grant, an administrative unit shall apply to the committee in a form and manner determined by the committee and provide such information as may be requested by the committee to document the administrative unit's high costs.

(a.5) Of the total amount appropriated in a budget year for the purpose of awarding grants pursuant to this section, the committee shall use fifty percent of the amount to award grants to administrative units that have one or more children being served in an out-of-district placement for special education services and fifty percent of the amount to award grants to administrative units with one or more children being served in an in-district placement for special education services.

(b) (I) Subject to the requirements of paragraph (a.5) of this subsection (3), the committee shall have the discretion to award a grant to an administrative unit that applies and qualifies to receive a grant pursuant to paragraph (a) of this subsection (3). In determining whether to award a grant to an administrative unit and the amount of the grant to be awarded, the committee shall consider the administrative unit's annual audited operating expenses for the preceding budget year and the percentage of the administrative unit's annual audited operating expenses that represents the high costs incurred by the administrative unit in the preceding budget year. All grants awarded by the committee shall be subject to approval by the state board.

(II) (A) In awarding grants pursuant to this section to administrative units that have one or more children being served in an out-of-district placement for special education services, the committee shall first prioritize those administrative units that spent the highest percentages, based on the administrative unit's annual audited operating expenses, in the



preceding budget year on high costs incurred in providing special education services to children in such out-of-district placements.

(B) In awarding grants pursuant to this section to administrative units with one or more children being served in an in-district placement for special education services, the committee shall first prioritize those administrative units that spent the highest percentages, based on the administrative unit's annual audited operating expenses, in the preceding budget year on high costs incurred in providing special education services to children in such in-district placements.

(c) An administrative unit shall not receive a grant in an amount that exceeds one hundred percent of the high costs that the administrative unit incurred in the preceding budget year.

(d) The committee shall not award a grant to an administrative unit that fails to provide the department with the data collected concerning special education programs, as required by section 22-20-114 (6), including the count of assessed special education students.

(e) For the purpose of grants awarded in the 2006-07 budget year, the threshold amount of costs incurred in providing special education services to a child with disabilities above which an administrative unit may receive reimbursement in the form of a grant pursuant to the provisions of this subsection (3) is forty thousand dollars. For the purpose of grants awarded in the 2007-08 budget year and each budget year thereafter, the committee shall annually determine the threshold amount of costs incurred in providing special education services to a child with disabilities above which an administrative unit may receive reimbursement in the form of a grant.

(4) (a) The department shall gather and provide to the committee data that includes but need not be limited to the following:

(I) The extent to which the amount appropriated pursuant to section 22-20-114 (1) is distributed based on the needs of children with disabilities and the severity of the needs of such children;

(II) The number of children with disabilities who receive special education services from each administrative unit and the nature of the disability of each child who receives special education services from each administrative unit;

(III) Patterns of identifying children with disabilities that include but need not be limited to recognized incidence rates of over- and under-identification of children with disabilities at the administrative unit, state, and national levels;

(IV) The number of hours of special education services that each administrative unit provides, disaggregated by disability; and

(V) The percentage of the school day during which children with disabilities receive special education services from the administrative unit, disaggregated by disability.

(b) On or before January 1, 2008, the committee shall submit to the state board, the education committees of the house of representatives and the senate, or any successor committees, a statewide organization of special education directors, and the financial policies and procedures advisory committee created in the department, a report that includes but need not be limited to the following:

(I) The information that the department gathered pursuant to paragraph (a) of this subsection (4) and any analysis conducted by the committee;

(II) Recommended changes, if any, to the manner of distributing funds to administrative units for special education programs pursuant to section 22-20-114 (1) (a) and (1) (b); and

(III) Recommended changes, if any, to the categorization of children with disabilities pursuant to section 22-20-114 (1) (b) and (1) (c) for the purpose of distributing funds for the provision of special education programs.

(5) On January 15, 2008, and on January 15 of each year thereafter, the committee shall submit to the education committees of the house of representatives and the senate, or any successor committees, a report that includes but need not be limited to a list of the administrative units that applied for and received a grant pursuant to subsection (3) of this section during the preceding budget year.

**Source: L. 2006:** Entire section added, p. 666, § 8, effective April 28. **L. 2007:** (1)(b), (3)(a), and (3)(b) amended and (1)(c) repealed, pp. 738, 745, §§ 10, 28, effective May 9. **L. 2008:** (3)(a.5) added and (3)(b) amended, p. 1208, § 19, effective May 22. **L. 2011:** (1)(b), (3)(a), (3)(a.5), and (3)(b)(II)(A) amended, (HB 11-1077), ch. 30, p. 78, § 10, effective August 10; (1)(b), (2)(a), (3)(a), (3)(a.5), and (3)(b)(II) amended, (HB 11-1277), ch. 306, p. 1497, § 20, effective August 10.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (3)(a.5) and amending subsection (3)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.

## **22-20-115. Study - report to general assembly. (Repealed)**

**Source: L. 87:** Entire section added, p. 828, § 4, effective May 16. **L. 93:** Entire section amended, p. 1648, § 40, effective July 1. **L. 96:** Entire section repealed, p. 1232, § 61, effective August 7.

**22-20-116. Minimum standards for educational interpreters for the deaf in the public schools - committee to recommend standards - rules.** (1) The general assembly hereby finds that interpreting services in administrative units, state-operated programs, and approved facility schools for students who are deaf or hard of hearing need to be improved and that the absence of state standards for evaluating educational interpreters allows for inconsistencies in the delivery of educational information to students who are deaf or hard of hearing. The general assembly recognizes that educational interpreters in such educational settings must not only interpret the spoken word but must also convey concepts and facilitate the student's understanding of the educational material. The general assembly also finds that standards should be based on performance and should be developed with input from the deaf community and from persons involved in instructing deaf students. Therefore, the general assembly enacts this section for the purpose of developing appropriate standards for persons employed as educational interpreters in administrative units, state-operated programs, and approved facility schools.

(2) For purposes of this section, "educational interpreter" means a person who uses sign language in an administrative unit, a state-operated program, or an approved facility school for purposes of facilitating communication between users and nonusers of sign language and who is fluent in the languages used by both deaf and nondeaf persons.

(3) to (5) Repealed.

(6) After review and study of the recommendations of the interpreter standards committee, the state board, on or before July 1, 1998, shall promulgate rules setting minimum standards for educational interpreters for the deaf employed by or in an administrative unit, a state-operated program, or an approved facility school. The state board may revise and amend such minimum standards as it deems necessary. The state board shall promulgate rules that set forth the documentation that a person seeking employment as an educational interpreter for the deaf must submit to the employing administrative unit, state-operated program, or approved facility school.

(7) On or after July 1, 2000, in addition to any other requirements that an administrative unit, a state-operated program, or an approved facility school may establish, any person employed as an educational interpreter for deaf students on a full-time or part-time basis by or in an administrative unit, a state-operated program, or an approved facility school shall meet the minimum standards for educational interpreters for the deaf as established by rules of the state board.

**Source: L. 97:** Entire section added, p. 70, § 1, effective March 24. **L. 2003:** (4) and (5) repealed, p. 1991, § 35, effective May 22. **L. 2004:** (6) and (7) amended, p. 1629, § 28,



effective July 1. **L. 2006:** Entire section amended, p. 333, § 12, effective August 7. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1498, § 21, effective August 10.

**Editor's note:** Subsection (3)(d) provided for the repeal of subsection (3), effective July 1, 1998. (See L. 97, p. 70.)

**22-20-117. Study of funding education programs for children with disabilities - report to the general assembly - repeal. (Repealed)**

**Source:** **L. 2000:** Entire section added, p. 486, § 8, effective April 28.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective January 1, 2001. (See L. 2000, p. 486.)

**22-20-118. Child find from birth through two years of age - responsibilities - rules - interagency operating agreements - transition meetings - funding.** (1) The department shall have the following responsibilities concerning part C child find:

(a) To ensure that administrative units perform the necessary screening and evaluation of children with disabilities from birth through two years of age;

(b) To promulgate rules and administrative remedies to ensure that the IDEA timelines and requirements of part C child find are met by administrative units and to establish a process for addressing situations where administrative units fail to meet the timelines and requirements;

(c) To establish state-level interagency operating agreements, including but not limited to:

(I) Working with the department of human services as necessary and within existing resources to assist in developing and implementing the department of human services' statewide plan described in section 27-10.5-103, C.R.S., for community education outreach and awareness efforts related to part C child find and the availability of early intervention services. The department's responsibilities shall be limited to those activities that relate to facilitating the implementation of part C child find activities and a collaborative system of early intervention services.

(II) Coordinating a process with the department of human services to provide for, accept, and assist with referrals to families in finding the appropriate agency for intake and case management as defined in section 27-10.5-102, C.R.S.;

(III) Facilitating the implementation of part C child find and the use of medicaid funds related to part C child find activities, including sharing of information where appropriate with the department of human services or the department of health care policy and financing as it provides part C child find services, provided that both departments act in compliance with the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320, as amended, and the federal "Family Education Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto; and

(IV) Monitoring screenings and evaluations by administrative units of children with disabilities.

(2) The administrative units shall:

(a) Establish local-level interagency operating agreements with community centered boards, as described in section 27-10.5-102, C.R.S., as necessary to assist in developing and implementing the department of human services' statewide plan defined in section 27-10.5-103, C.R.S., for community education outreach and awareness efforts related to part C child find and the availability of early intervention services. The administrative units' responsibilities shall be limited to those activities that relate to facilitating the implementation of part C child find activities and a collaborative system of early intervention services.

(b) Screen and evaluate children from birth through two years of age who have been referred to the administrative unit for services under part C child find. Administrative units

may elect to serve children from birth through two years of age identified as needing services under part C child find as defined in section 22-20-103 (4) (a).

(c) Pursuant to the development of the IFSP, coordinate with community centered boards to have the same representative who conducts a part C child find evaluation attend the mandatory meeting at which the family receives information concerning the results of the part C child find evaluation; and

(d) Pursuant to section 27-10.5-704, C.R.S., coordinate with community centered boards, the department of human services, and the department to assist a child with disabilities as he or she transitions from the developmental disabilities system into the public education system no later than the age of three.

**Source: L. 2007:** Entire section added, p. 1557, § 4, effective May 31. **L. 2008:** (2)(d) amended, p. 1468, § 13, effective August 5.

**22-20-119. Implementation of change of disability categories for children with disabilities.** On or before November 1, 2011, the department shall develop guidelines and timelines to be used by administrative units and state-operated programs for developing local systems and infrastructure that incorporate the disability categories set forth in section 22-20-103 (5) (a). The guidelines shall address necessary revisions to model forms and local training needs, pursuant to section 2-2-802, C.R.S. The timelines shall encourage administrative units and state-operated programs to implement the disability categories and related eligibility criteria established in section 22-20-103 (5) (a) as soon as possible after the state board issues implementing rules, to be adopted on or before December 1, 2012. Administrative units and state-operated programs shall have until July 1, 2016, to implement any necessary changes without loss of special education funding or incurring any other penalties.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1499, § 22, effective August 10.

## PART 2

### EDUCATION OF GIFTED CHILDREN

**22-20-201. Legislative declaration.** The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children that will enable them to lead fulfilling and productive lives, declares that the purpose of this part 2 is to provide means for identifying and educating those children who are exceptional. The general assembly further finds and declares that traditional assessment methods currently used do not adequately identify some gifted children, including those who are economically disadvantaged, those who are from ethnic or cultural minorities, and those with disabilities; and that the state board, the department, and every administrative unit are encouraged to give the highest priority to the identification of gifted children and to the development of educational programs that include gifted children.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 79, § 11, effective August 10.

**22-20-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) “Administrative unit” means a school district, a board of cooperative services, or the state charter school institute that is providing educational services to exceptional children and that is responsible for the local administration of this article.

(2) “Advanced learning plan” or “ALP” means a written record of gifted and talented programming utilized with each gifted child and considered in educational planning and decision-making.



(3) “Board of cooperative services” means a regional educational services unit created pursuant to article 5 of this title and designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

(4) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) “Exceptional child” means:

(a) A child defined in section 22-20-103 (5) as a child with a disability. An administrative unit shall serve every child with a disability from three to twenty-one years of age and may serve children with disabilities from birth through two years of age.

(b) A child defined in subsection (6) of this section as a gifted child. Pursuant to section 22-20-204 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve gifted children who are at least five years of age.

(6) “Gifted child” means a person from four to twenty-one years of age whose abilities, talents, and potential for accomplishments are so outstanding that he or she requires special provisions to meet his or her educational needs.

(7) “Gifted education services” or “gifted education programs” means the services or programs provided to gifted children pursuant to this part 2.

(8) “Highly advanced gifted child” means a gifted child who has been identified by an administrative unit, using criteria and a process established by rules promulgated by the state board pursuant to section 22-20-204 (6), to be a highly advanced gifted child.

(9) “School district” means a school district organized and existing pursuant to law, but shall not include a junior college district.

(10) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 79, § 11, effective August 10.

**22-20-203. Administration - rules.** (1) (a) This part 2 shall be administered by the department. Administration of this part 2 shall include the recommendation to the state board of reasonable rules necessary to implement this part 2, including but not limited to:

(I) Procedures regarding the identification of gifted children; and

(II) Criteria for administrative units to satisfy in adopting program plans to identify and serve gifted children.

(b) The state board shall adopt appropriate recommendations as rules to implement this part 2 following public comment and hearing. The rules promulgated by the state board shall be in accord with the legislative declaration set forth in section 22-20-201.

(c) An administrative unit that provides plans, programs, or services that do not comply with the rules adopted by the state board will be provided by the department with a detailed analysis of any discrepancies noted along with specific recommendations for their correction. Applicable federal and state funding will be provided or continued for a reasonable period of time, as determined by the department, to allow the administrative unit an opportunity to comply with such rules. An administrative unit may establish a claim for variance based upon conditions indigenous to or unique to the administrative unit.

(2) In order to implement the provisions of sections 22-20-201 and 22-20-204, the state board and the department may provide, at their discretion, for such personnel as deemed necessary for such purposes.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 80, § 11, effective August 10.

**22-20-204. Plan for academic excellence - inclusion of gifted children - cooperation - rules.** (1) Each administrative unit shall adopt and implement a program plan to identify and serve gifted children who are at least five years of age. Any program plan developed and implemented pursuant to the provisions of this section shall satisfy any criteria

established by rules promulgated by the state board for the implementation of this part 2. A program plan adopted by an administrative unit pursuant to this section shall be consistent with the advanced learning plans of the gifted children who are identified by the administrative unit, and the program plan shall be implemented to the extent that funds are provided for such implementation. Nothing in this part 2 shall be construed to require an administrative unit to implement a program plan in the event that sufficient moneys are not provided for such implementation.

(2) (a) In adopting and implementing a program plan to identify and serve gifted children pursuant to subsection (1) of this section, each administrative unit may include in its program plan provisions to identify and serve highly advanced gifted children who are:

(I) Four years of age and for whom early access to kindergarten is deemed appropriate by the administrative unit; and

(II) Five years of age and for whom early access to first grade is deemed appropriate by the administrative unit.

(b) In making determinations pursuant to paragraph (a) of this subsection (2), an administrative unit shall apply the criteria and process established by rules promulgated by the state board pursuant to subsection (6) of this section.

(c) If an administrative unit includes in its program plan provisions to identify and serve highly advanced gifted children as described in paragraph (a) of this subsection (2), the administrative unit shall make available upon request to any person the administrative unit's criteria and process for identifying a highly advanced gifted child for whom early access to kindergarten or first grade is deemed appropriate, including time frames, deadlines, and any specific tests and threshold scores used by the administrative unit in identifying and making a final determination concerning such a student.

(d) If an administrative unit includes in its program plan provisions to identify and serve highly advanced gifted children as described in paragraph (a) of this subsection (2), the administrative unit may charge a fee for any assessments or other procedures that the administrative unit performs for the purpose of identifying a highly advanced gifted child for whom early access to kindergarten or first grade is deemed appropriate; except that an administrative unit shall not charge such a fee for any such assessments or other procedures if the child who is the subject of such assessments or other procedures is eligible for a reduced-cost meal or free meal pursuant to the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(e) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, provisions to identify and serve highly advanced gifted children who are four years of age and for whom early access to kindergarten is deemed appropriate by an administrative unit or who are five years of age and for whom early access to first grade is deemed appropriate by an administrative unit are important elements of accountable education reform and expanding the availability of preschool and kindergarten programs and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) Institutions of higher education that are located within the state are encouraged to work with the administrative units, the state board, and the department to provide staff development and in-service opportunities to support such management plans specified in subsection (1) of this section.

(4) Funding for gifted programs shall be for appropriately certified, endorsed, or licensed staff, for activities related to serving gifted children, and for educational equipment and materials. Funding for gifted programs shall supplement, not supplant, programs for students with disabilities.

(5) For each fiscal year, appropriations made by the general assembly to fund programs for gifted children shall be designated by a separate line item in the annual general appropriation act.

(6) (a) On or before July 1, 2008, the state board shall promulgate rules to establish criteria and a process that an administrative unit shall use, pursuant to paragraph (b) of subsection (2) of this section, to make determinations regarding the advanced placement of highly advanced gifted children pursuant to paragraph (a) of subsection (2) of this section.



(b) The criteria established by rules promulgated pursuant to paragraph (a) of this subsection (6) shall include consideration of a child's:

- (I) Aptitude;
- (II) Achievement;
- (III) Performance;
- (IV) Readiness for advanced placement;
- (V) Observable social behavior;
- (VI) Motivation to learn; and
- (VII) Support from parents, teachers, and school administrators.

(c) The process established by rules promulgated pursuant to paragraph (a) of this subsection (6) shall include:

(I) A timeline according to which a child's parents may apply for advanced placement for the child;

(II) A description of administrative unit personnel who shall be involved in the process of identifying highly advanced gifted children for whom advanced placement is appropriate;

(III) A description of how each child for whom the child's parents are seeking advanced placement shall be evaluated;

(IV) A description of the entire body of evidence that shall be used to evaluate each child for whom the child's parents are seeking advanced placement;

(V) A description of how decisions concerning the advanced placement of highly advanced gifted children shall be made collaboratively by administrative unit personnel; and

(VI) A description of how an administrative unit shall monitor the performance of a child who has received an advanced placement pursuant to subsection (2) of this section.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 81, § 11, effective August 10.

**22-20-205. Gifted education programs.** (1) If an administrative unit receives funding to educate gifted children, the administrative unit shall submit an annual plan for educating said children to the department pursuant to rules promulgated by the state board.

(2) For the purpose of implementing the program plan adopted by each administrative unit pursuant to section 22-20-204, each administrative unit shall ensure that its constituent schools and school districts make available appropriate special provisions for gifted children to the extent that funds are provided for such implementation.

(3) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain gifted education programs for the education of exceptional children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or an administrative unit having fewer than six children who need a particular kind of gifted education program may purchase services from one or more administrative units where an appropriate gifted education program exists.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 84, § 11, effective August 10.

**22-20-206. Length of school year.** An administrative unit may conduct gifted education programs as prescribed in this part 2 for any length of time; except that the administrative unit must meet the minimum length of time as established by law for school districts.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 84, § 11, effective August 10.

ARTICLE 21

Public Education Incentive Program

22-21-101 to 22-21-107. (Repealed)

Source: L. 2000: Entire article repealed, p. 375, § 31, effective April 10.

Editor’s note: This article was numbered as article 40 of chapter 123 in the 1969 cumulative supplement to C.R.S. 1963 and was not amended prior to its repeal in 2000. For the text of this article prior to 2000, consult the 1999 Colorado Revised Statutes.

ARTICLE 22

Educational Achievement Act

22-22-101 to 22-22-106. (Repealed)

Source: L. 84: Entire article repealed, p. 592, § 1, effective March 16.

Editor’s note: This article was numbered as article 39 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 23

Education of Migrant Children

Editor’s note: This article was numbered as article 29 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1965, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1965, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

22-23-101.	Short title.		quirements.
22-23-102.	Legislative declaration.	22-23-106.	Summer schools.
22-23-103.	Definitions.	22-23-107.	Computation for reimburse-
22-23-104.	Administration.		ment.
22-23-105.	Regular school session re-		

22-23-101. Short title. This article shall be known and may be cited as the “Migrant Children Educational Act”.

Source: L. 65: R&RE, p. 1019, § 1. C.R.S. 1963: § 123-29-1.

22-23-102. Legislative declaration. In order to facilitate the education of migrant children who are unable to receive continuous education during the regular school term and to develop fully the capacities and potentialities of migrant children for the benefit of themselves and society, a program for the education of migrant children is hereby established.

Source: L. 65: R&RE, p. 1019, § 1. C.R.S. 1963: § 123-29-2.

22-23-103. Definitions. As used in this article, unless the context otherwise requires:

(1) “Migrant agricultural worker” means any person engaged in agricultural labor in this state who is residing in a school district which is not his regular domicile during the performance of such agricultural labor.



(2) “Migrant children” or “migrant child” means any child of school age who is in the custody of migrant agricultural workers, regardless of whether they are his parents.

(3) “State board” means the state board of education.

**Source:** L. 65: R&RE, p. 1019, § 1. C.R.S. 1963: § 123-29-3.

**22-23-104. Administration.** (1) The state board may employ necessary personnel, pay necessary travel expenses of such personnel, and purchase supplies and equipment as may be needed to carry out the administration of the program for the education of migrant children as provided in this article, and may make such rules and regulations as it may deem necessary for the proper and efficient administration of said program.

(2) Any school district which maintains a school in its district, and wherein there are migrant children, may make application to the state board to participate in the program established by this article. Any school district participating in said program shall administer the program in its district in accordance with rules and regulations of the state board.

**Source:** L. 65: R&RE, p. 1020, § 1. C.R.S. 1963: § 123-29-4.

**22-23-105. Regular school session requirements.** (1) The following standards shall apply during the regular terms of school and shall be applicable equally in every school district:

(a) The residence of a migrant child, for purposes of education, shall be the school district where the migrant child is receiving shelter and the necessities of life, and the provisions of section 22-32-116 shall not apply to this section.

(b) A migrant child shall attend school while residing in any school district in the state when the regular terms of school are in session, unless excused in compliance with the provisions of the “School Attendance Law of 1963”, article 33 of this title; and the board of education of a school district shall enforce the attendance in a school of the district of any such migrant child residing in said district.

(c) The payment of additional necessary costs in administering and maintaining the program authorized by this section shall be paid jointly by the state and the participating school district. The per capita additional cost of educating a migrant child in a school district participating in said program may include the following expenses, under rules and regulations prescribed by the state board:

(I) Salaries of personnel, assistants to teachers, and clerical, health, and custodial employees and specialized instructional services as needed;

(II) Necessary additional textbooks, educational supplies, and equipment;

(III) School lunch operation;

(IV) School bus transportation;

(V) Provision of and physical plant operation, including rent, heat, light, water, repairs, adjustments, and maintenance, if regular school facilities are not used; except that provision of and operation of the school plant shall be a contribution of the school district if regular school facilities are used.

(2) Upon submission and approval by the state board of itemized statements from the boards of education of the participating school districts for additional moneys to cover expenses incurred by them in conducting said programs, such school districts shall be reimbursed for such additional expenses as specified in subsection (1) (c) of this section. Applications by participating school districts for reimbursement shall be made on forms prescribed by the state board at such time or times during the year as determined by the state board.

**Source:** L. 65: R&RE, p. 1020, § 1. C.R.S. 1963: § 123-29-5.

**Cross references:** For the “School Attendance Law of 1963”, see article 33 of this title.

**22-23-106. Summer schools.** (1) The program established by this section shall be under the general supervision of the state board. An educational program for migrant children may be operated within the period from the termination of the regular school term in the spring until the regular school term convenes in the fall.

(2) Any school district wherein there are migrant children in the summer period may make application to the state board to participate in the summer school program authorized by this section. From such applications the state board shall select school districts to operate summer schools for migrant children in accordance with the amount of funds available, the number of migrant children in the school districts, and other criteria specified by the state board.

(3) Residence requirements for migrant children under the summer school program shall be the same as set forth in section 22-23-105.

(4) For the purpose of the summer school program, in addition to "migrant child" defined in section 22-23-103, a child of school age shall be considered a migrant child if he was not able to attend the full number of days prescribed by law during the previous school year as a direct result of being in the custody of a migrant agricultural worker.

(5) The board of education of a school district has the authority to determine whether attendance at summer school shall be voluntary or compulsory. If attendance is compulsory, migrant children shall attend unless excused in compliance with the "School Attendance Law of 1963", article 33 of this title.

(6) Each school district participating in the summer school program shall be reimbursed from state funds for actual costs incurred in the operation of the program, including allotments for classroom units and supervisory units based upon the formulas set forth in section 22-23-107. The school district shall also receive reimbursement, under rules of the state board, for the net cost of its school lunch operation and for school vehicle operations at rates fixed by the state board. School districts shall report all such costs on forms prescribed by the state board.

**Source:** L. 65: R&RE, p. 1021, § 1. C.R.S. 1963: § 123-29-6. L. 2010: (6) amended, (HB 10-1232), ch. 163, p. 569, § 3, effective April 28.

**Cross references:** For the "School Attendance Law of 1963", see article 33 of this title.

**22-23-107. Computation for reimbursement.** (1) **Classroom unit (CU) formula.** A classroom unit (CU) shall consist of fifteen children in average daily attendance. The number of classroom units and fractions thereof shall be multiplied by the number of school days in the term plus one day in order to determine the number of daily classroom units allowable. The number of daily classroom units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of classroom unit state aid. The value of the daily classroom unit state aid shall be determined annually by the state board.

(2) **Supervisory unit (SU) formula.** The number of supervisory units in a school of one to ten or more teachers shall be 1.00 plus .05 for each classroom unit allowable through ten, to a maximum of 1.50 for ten teachers, plus .02 for each teacher beyond ten teachers. The number of supervisory units shall be multiplied by the number of days in the term plus two days in order to determine the number of daily supervisory units allowable. The number of daily supervisory units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of supervisory unit state aid.

**Source:** L. 65: R&RE, p. 1022, § 1. C.R.S. 1963: § 123-29-7.

## ARTICLE 24

### English Language Proficiency Act

**Editor's note:** This article was added in 1975. This article was repealed and reenacted in 1981, resulting in the addition, relocation, and elimination of sections as well as subject matter. For



amendments to this article prior to 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For article, "Equal Educational Opportunities for Language Minority Children", see 55 U. Colo. L. Rev. 559 (1984).

22-24-101.	Short title.		ing.
22-24-102.	Legislative declaration.	22-24-105.	District - powers and duties.
22-24-103.	Definitions.	22-24-106.	Department - powers and duties.
22-24-104.	English language proficiency program established - fund-		

**22-24-101. Short title.** This article shall be known and may be cited as the "English Language Proficiency Act".

**Source: L. 81:** Entire article R&RE, p. 1058, § 1, effective July 1.

**Editor's note:** This section is similar to former § 22-24-101 as it existed prior to 1981.

**22-24-102. Legislative declaration.** The general assembly hereby finds, determines, and declares that there is a substantial number of students in this state whose educational potential is severely restricted due to their lack of proficiency with the English language. The general assembly recognizes the need to provide for transitional programs to improve the English language skills of these students. The general assembly declares that, in order to improve educational and career opportunities for every student in this state, it is the purpose of this article to provide for the establishment of an English language proficiency program in the public schools and facility schools and to provide for the distribution of moneys to the several school districts, the state charter school institute, and facility schools to help defray the costs of such program.

**Source: L. 81:** Entire article R&RE, p. 1058, § 1, effective July 1. **L. 2004:** Entire section amended, p. 1630, § 29, effective July 1. **L. 2008:** Entire section amended, p. 1388, § 17, effective May 27. **L. 2010:** Entire section amended, (SB 10-062), ch. 168, p. 591, § 2, effective April 29.

**Editor's note:** This section is similar to former § 22-24-102 as it existed prior to 1981.

**22-24-103. Definitions.** As used in this article, unless the context otherwise requires:

- (1) "Department" means the department of education.
- (2) "District" means one or more school districts or a board of cooperative services organized and existing pursuant to law but does not include a junior college district.
- (2.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).
- (3) "Program" means the English language proficiency program created by this article. Design and implementation of programs shall be the function of the districts, the state charter school institute, and the facility schools.
- (3.5) "State charter school institute" means the state charter school institute created pursuant to part 5 of article 30.5 of this title.
- (4) "Student with limited English proficiency" means a public school or facility school student whose academic achievement and English language proficiency are determined by the student's school district, the state charter school institute, or the facility school, using the instrument or technique developed and approved by the department pursuant to section 22-24-106 (1) (a), to be impaired because of the student's inability to comprehend or speak English adequately and who is one or more of the following:

(a) A student who speaks a language other than English and does not comprehend or speak English; or

(b) A student who comprehends or speaks some English, but whose primary comprehension or speech is in a language other than English; or

(c) A student who comprehends and speaks English and one or more other languages but whose English language development and comprehension is:

(I) At or below the district mean or below the mean or equivalent on a nationally standardized test; or

(II) Below the acceptable proficiency level based on the instrument or technique developed and approved by the department pursuant to section 22-24-106 (1) (a).

(5) "Teacher" means any person licensed pursuant to article 60.5 of this title who is employed to administer, direct, or supervise classroom instruction in a school in this state.

**Source:** **L. 81:** Entire article R&RE, p. 1058, § 1, effective July 1. **L. 2000:** (5) amended, p. 1855, § 51, effective August 2. **L. 2004:** (3) and IP(4) amended and (3.5) added, p. 1630, § 30, effective July 1. **L. 2008:** (2.5) added and (3) and IP(4) amended, p. 1388, § 18, effective May 27. **L. 2010:** (4) amended, (SB 10-062), ch. 168, p. 592, § 3, effective April 29.

**Editor's note:** This section is similar to former § 22-24-103 as it existed prior to 1981.

#### ANNOTATION

**Applied** in *Keyes v. Sch. Dist. No. 1*, 576 F. Supp. 1503 (D. Colo. 1983).

#### **22-24-104. English language proficiency program established - funding.**

(1) There is hereby established an English language proficiency program for students with limited English proficiency in kindergarten and grades one through twelve.

(2) The purpose of the program is to provide assistance to districts, institute charter schools, and facility schools having students with limited English proficiency.

(3) A district, an institute charter school, or a facility school shall not be eligible for more than two fiscal years of state entitlement moneys on behalf of a student identified for inclusion in this state-assisted program.

(4) (a) The general assembly shall make an annual appropriation to the department for the implementation of this article. Funding for the program shall be from the department to the districts, the state charter school institute, and the facility schools on a per-student basis. That portion of the annual appropriation scheduled for distribution to the districts, the state charter school institute, and the facility schools shall be paid to the districts, the state charter school institute, and the facility schools upon the determination, pursuant to section 22-24-106 (1) (d), of the number of students in each district, institute charter school, or facility school to be included in the program.

(b) The general assembly shall annually make a separate appropriation to the department of education to cover the state's share of the estimated cost pursuant to the provisions of this section. If the amount of the appropriation made is less than the total amount determined to be the state's actual share of support to be provided all eligible students pursuant to the provisions of this section, then the amount to be distributed to any district, to the state charter school institute, or to a facility school shall be in the same proportion as the amount of the appropriation made bears to such total amount determined to be the state's actual share.

(c) (I) An amount equal to seventy-five percent of the appropriation made to the department for the 1998-99 fiscal year plus any increase in the annual appropriation made to the department over the appropriation made for the 1998-99 fiscal year or the amount needed to fully fund the program pursuant to this subparagraph (I), whichever is less, shall be used by the districts, the state charter school institute, and the facility schools for students certified to be within section 22-24-103 (4) (a) or (4) (b). No such student shall be funded



for more than an amount equal to four hundred dollars per year or an amount equal to twenty percent of the state average per pupil revenues, as defined in section 22-54-103 (12) for the preceding year as annually determined by the department, whichever is greater.

(II) The remainder of the annual appropriation shall be used by the districts, the state charter school institute, and the facility schools for students certified to be within section 22-24-103 (4) (c). No such student shall be funded for an amount greater than two hundred dollars per year or an amount equal to ten percent of the state average per pupil revenues, as defined in section 22-54-103 (12), for the preceding year as annually determined by the department, whichever is greater.

(III) Any appropriated moneys not distributed by the department pursuant to subparagraph (I) of this paragraph (c) may be distributed by the department pursuant to subparagraph (II) of this paragraph (c). Any appropriated moneys not distributed by the department pursuant to subparagraph (II) of this paragraph (c) may be distributed pursuant to subparagraph (I) of this paragraph (c).

(5) Each district, the state charter school institute, and each facility school shall provide the programs for district, institute charter school, and facility school students with limited English proficiency; except that districts, the state charter school institute, and the facility schools may cooperate in carrying out the provisions of this article.

(6) Nothing in this article shall be construed to prohibit use of moneys made available under this article by a district, the state charter school institute, or a facility school for bilingual programs, English-as-a-second-language programs, or any other method of achieving the purposes of this article. Districts, the state charter school institute, and facility schools conducting such programs shall receive moneys made available under this article only on the basis of the number of students with limited English proficiency enrolled in such programs.

**Source:** **L. 81:** Entire article R&RE, p. 1059, § 1, effective July 1. **L. 88:** (4)(c)(II) amended, p. 811, § 8, effective January 1, 1989. **L. 90:** (3) amended, p. 1080, § 34, effective May 31; (4)(c)(I) amended, p. 1846, § 39, effective May 31. **L. 94:** (4)(c)(I) and (4)(c)(II) amended, p. 812, § 21, effective April 27. **L. 99:** (4)(c)(I) amended, p. 177, § 7, effective March 30. **L. 2004:** Entire section amended, p. 1630, § 31, effective July 1. **L. 2008:** Entire section amended, p. 1388, § 19, effective May 27. **L. 2010:** (1), (2), (5), and (6) amended, (SB 10-062), ch. 168, p. 592, § 4, effective April 29; (4)(c)(I) and (4)(c)(II) amended, (HB 10-1013), ch. 399, p. 1913, § 37, effective June 10.

## ANNOTATION

**Applied** in *Keyes v. Sch. Dist. No. 1*, 576 F. Supp. 1503 (D. Colo. 1983).

**22-24-105. District - powers and duties.** (1) It is the duty of each district, the state charter school institute, and each facility school to:

(a) Identify, through the observations and recommendations of parents, teachers, or other persons, students who may have limited English proficiency;

(b) (I) Assess such students, using the entire instrument or technique approved by the department pursuant to section 22-24-106 (1) (a), to determine if their English proficiency is limited;

(II) Repealed.

(c) Certify each year to the department those students in the district, in institute charter schools, or in facility schools with limited English proficiency, including specification of the number of non-English languages identified as such students' primary languages and of the number of students who speak each non-English language as their primary language;

(d) Administer and provide programs for students with limited English proficiency.

(2) The assessment described in paragraph (b) of subsection (1) of this section and the certification described in paragraph (c) of subsection (1) of this section shall be conducted

on at least an annual basis and each district, the state charter school institute, and each facility school shall present the results therefrom to the department for use in the accreditation process and appropriate reporting pursuant to article 11 of this title.

**Source:** **L. 81:** Entire article R&RE, p. 1060, § 1, effective July 1. **L. 2001:** (2) added, p. 1502, § 29, effective June 8. **L. 2002:** (1)(b), (1)(c), and (2) amended, p. 995, § 3, effective June 1. **L. 2004:** IP(1), (1)(b)(II), (1)(c), and (2) amended, p. 1632, § 32, effective July 1. **L. 2008:** Entire section amended, p. 1390, § 20, effective May 27. **L. 2009:** (2) amended, (SB 09-163), ch. 293, p. 1532, § 19, effective May 21. **L. 2010:** (1) amended, (SB 10-062), ch. 168, p. 593, § 5, effective April 29.

**Editor's note:** Subsection (1)(b)(II) provided for the repeal of subsection (1)(b)(II), effective July 1, 2005. (See L. 2002, p. 995.)

## ANNOTATION

**Applied** in *Keyes v. Sch. Dist. No. 1*, 576 F. Supp. 1503 (D. Colo. 1983).

### **22-24-106. Department - powers and duties.** (1) It is the duty of the department to:

(a) Develop and approve a single instrument or technique to be used by districts, the state charter school institute, and facility schools in identifying students with limited English proficiency;

(a.3) Establish statewide levels of proficiency on the entire instrument or technique approved pursuant to paragraph (a) of this subsection (1);

(a.7) Establish, by rule, any accommodations that shall be allowed and in what situations accommodations shall be allowed for a student with limited English proficiency when the student is taking an assessment pursuant to section 22-7-409;

(b) Provide assistance, on request, to districts, the state charter school institute, and facility schools in the identification and assessment of students;

(c) Audit the identification and testing procedures used by the districts, the state charter school institute, and facility schools and evaluate the effectiveness of the programs conducted by districts, the state charter school institute, and facility schools;

(d) Determine which students are to be counted as students with limited English proficiency for purposes of calculating the district's, the state charter school institute's, or the facility school's entitlement;

(e) Allocate such moneys, out of annual appropriations to the department, on a per-student basis;

(f) Disaggregate testing data to track the academic progress of students with limited English proficiency but who have been enrolled in a public school of the state or one or more facility schools for three years or longer or have subsequently been assessed as proficient in English.

(2) and (3) Repealed.

**Source:** **L. 81:** Entire article R&RE, p. 1061, § 1, effective July 1. **L. 96:** (2) repealed, p. 1232, § 60, effective August 7. **L. 2002:** (1)(a) amended and (1)(a.3), (1)(a.7), (1)(f), and (3) added, pp. 994, 995, §§ 1, 2, effective June 1. **L. 2004:** (1)(a), (1)(b), (1)(c), and (1)(d) amended, p. 1632, § 33, effective July 1. **L. 2008:** (1) amended, p. 1390, § 21, effective May 27. **L. 2010:** (1)(a), (1)(a.7), (1)(d), and (1)(f) amended, (SB 10-062), ch. 168, p. 593, § 6, effective April 29.

**Editor's note:** (1) This section is similar to former § 22-24-107 as it existed prior to 1981.

(2) Subsection (3)(c) provided for the repeal of subsection (3), effective July 1, 2004. (See L. 2002, p. 995.)

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996.



Colorado Comprehensive Health  
Education Act

**Editor’s note:** This article was added in 1975. This article was repealed and reenacted in 1990, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

22-25-101.	Short title.	22-25-106.	Local comprehensive health education programs - local student wellness programs - establishment of comprehensive health education advisory councils.
22-25-102.	Legislative declaration.		
22-25-103.	Definitions.		
22-25-104.	Colorado comprehensive health education program - role of department of education - recommended curriculum guidelines - allocation of funds - rules.	22-25-107.	Reports required.
		22-25-108.	Participation of nonpublic school personnel.
22-25-104.5.	Law-related education program - creation.	22-25-109.	Colorado comprehensive health education fund - creation - acceptance of funds - repeal. (Repealed)
22-25-105.	Review of local comprehensive health education programs and local student wellness programs - allocation of funds by the state board of education.	22-25-110.	Funding of existing programs - operation of other health education programs.

**22-25-101. Short title.** This article shall be known and may be cited as the “Colorado Comprehensive Health Education Act”.

**Source:** L. 90: Entire article R&RE, p. 1093, § 62, effective May 31.

**Editor’s note:** This section is similar to former § 22-25-101 as it existed prior to 1990.

**22-25-102. Legislative declaration.** (1) The general assembly hereby finds and declares that comprehensive health education is an essential element of public education in the state of Colorado. The school system is a logical vehicle for conveying to children and parents significant health information, developing an awareness of the value of good health to the individual and to the community, promoting healthy behavior and positive self-concepts, and providing means for dealing with peer and other pressures. It is further declared that many serious health problems in Colorado, including high-risk behaviors, are directly attributable to the insufficient health knowledge and motivation of the school-age population and the general public and that studies have demonstrated the effectiveness of a planned school curriculum throughout the elementary and secondary grades in developing healthy behavior. The purpose of this article is to foster healthy behaviors in our children and communities through a comprehensive educational plan which has as its goal not only the increase of health knowledge but also the modification of high-risk behaviors.

(2) Since the enactment of this article, the general assembly has further determined that the insidious attractions of gangs and substance abuse are endangering the youth of Colorado and, by doing so, are endangering all Colorado citizens. Accordingly, the general assembly finds and declares that the implementation of educational programs in the public schools, including facility schools, is necessary to assist young people in avoiding gang involvement and substance abuse.

(3) The general assembly further finds that:

(a) For students to reach their full potential, school communities need to address comprehensive issues of student wellness, including but not limited to addressing the physical, mental, emotional, and social needs of students;

(b) High-quality physical education programs taught by persons who are licensed and endorsed in physical education may be a factor in battling the rising incidence of obesity by ensuring not only that children receive a healthy level of physical activity but that they also learn skills and develop knowledge that will enable them to maintain a healthy level of activity throughout their lifetimes;

(c) It is therefore appropriate for the general assembly to expand the “Colorado Comprehensive Health Education Act” to include funding for local student wellness programs that are coordinated with local comprehensive health education programs in public schools, including facility schools.

**Source:** **L. 90:** Entire article R&RE, p. 1093, § 62, effective May 31. **L. 94:** Entire section amended, p. 1256, § 1, effective May 22. **L. 2008:** (2) amended, p. 1391, § 22, effective May 27; (3) added, p. 672, § 2, effective August 5; (3)(c) amended, p. 1391, § 23, effective August 5.

**Editor’s note:** This section is similar to former § 22-25-102 as it existed prior to 1990.

### ANNOTATION

**Applied** in *La Loma, Inc. v. City & County of Denver*, 40 Colo. App. 55, 572 P.2d 1219 (1977).

**22-25-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Colorado comprehensive health education program” means the program created by section 22-25-104 (1) for the purpose of encouraging the teaching of comprehensive health education for the students of the schools in Colorado.

(2) “Commissioner” means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(3) “Comprehensive health education” means a planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve which shall include, but shall not be limited to, the following topics:

(a) Communicable diseases, including, but not limited to, acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) related illness;

(b) Community and environmental health;

(c) Consumer health;

(d) Dental health;

(e) Tobacco, alcohol, and other drug use;

(f) Human growth and development;

(g) Hereditary and developmental conditions;

(h) Mental and emotional health;

(i) Nutrition, personal health, and physical fitness;

(j) Family life education;

(k) Injury prevention, safety, motor vehicle safety, and emergency care;

(l) High-risk behaviors and concerns; and

(m) Age appropriate instruction on family roles and expectations, child development, and parenting.

(3.3) “Facility school” means an approved facility school as defined in section 22-2-402 (1).

(3.5) “Gang” means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct, engaged in either collectively or individually.

(4) “High-risk behaviors” means actions by children and adolescents which present a danger to their physical or mental health or which may impede their ability to lead healthy and productive lives. “High-risk behaviors” includes, but is not limited to, dropping out of school, incest and other sexual activity with adults, sexual activity by school aged children, physical and mental abuse, violence, and use of tobacco, alcohol, or other drugs.



(4.5) “Law-related education program” means an educational program for teaching nonlawyers about law, the legal system, and the fundamental principles and values on which our constitutional democracy is based, which program’s approach is characterized by relevant curriculum materials, interactive teaching strategies, and extensive use of community resource persons and experience.

(5) “Local comprehensive health education program” means a health education program instituted by a school board, board of cooperative services, or facility school in accordance with the requirements of this article.

(5.5) “Local student wellness program” means a program adopted by a school district, board of cooperative services, or facility school that is coordinated with health education and is designed to provide services to students in one or more of the following areas:

- (a) Physical education;
- (b) Nutrition services;
- (c) Mental health counseling and services;
- (d) Promotion of a healthy school environment;
- (e) Health education;
- (f) Health services;
- (g) Involvement of students’ families and communities in supporting and reinforcing healthy choices.

(6) “State board” means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** **L. 90:** Entire article R&RE, p. 1093, § 62, effective May 31. **L. 94:** (3.5), (4.5), and (6) added, p. 1257, § 2, effective May 22. **L. 2008:** (3.3) added and (5) amended, p. 1392, § 25, effective May 27; (5.5) added, p. 672, § 3, effective August 5; IP(5.5) amended, p. 1391, § 24, effective August 5.

**Editor’s note:** This section is similar to former § 22-25-103 as it existed prior to 1990.

#### ANNOTATION

**Applied** in *La Loma, Inc. v. City & County of Denver*, 40 Colo. App. 55, 572 P.2d 1219 (1977).

#### **22-25-104. Colorado comprehensive health education program - role of department of education - recommended curriculum guidelines - allocation of funds - rules.**

(1) There is hereby created the Colorado comprehensive health education program, which shall be a voluntary program in which school districts, boards of cooperative services, and facility schools may participate through the creation of local comprehensive health education programs, which may include coordination with local student wellness programs. Implementation of the Colorado comprehensive health education program shall be a cooperative effort among the department of education, the Colorado commission on higher education, the department of public health and environment and other health education professionals, and participating school districts and boards of cooperative services.

(2) The department of education shall have the authority to promote the development and implementation of local comprehensive health education programs and local student wellness programs.

(3) (a) With the assistance of parents, school districts, the department of public health and environment, the Colorado commission on higher education, and other interested parties, the department of education shall develop recommended guidelines for the implementation of local comprehensive health education programs and local student wellness programs. The guidelines developed pursuant to this subsection (3) shall comply with the requirements of section 22-1-110.5.

(b) The guidelines developed by the department of education pursuant to paragraph (a) of this subsection (3) shall include, but shall not be limited to, the following for preschool, kindergarten, and grades one through twelve:

(I) The recommended information and topics to be covered in the local comprehensive health education program or local student wellness program and the recommended methods of instruction to be used by teachers for such program;

(II) The recommended hours of instruction required to ensure that positive health knowledge, attitudes, and practices are achieved and maintained by the students;

(III) The recommended hours of instruction in physical education required to ensure that students not only develop healthy muscular and cardiovascular systems, but that they also develop skills and knowledge to enable them to remain active and healthy throughout their lifetimes; and

(IV) The recommended training the school district, the facility school, or board of cooperative services may require for staff who instruct in local comprehensive health education programs or local student wellness programs.

(4) (a) The department of education shall develop a plan for the training of teachers to provide comprehensive health education and student wellness and shall promote the proper training of staff in health education and in student wellness programs.

(b) As part of the plan to train teachers to instruct in comprehensive health education and student wellness, the Colorado department of education and the Colorado commission on higher education shall cooperatively develop course work or instructor endorsements in health, physical education, and high-risk behaviors education in order that both interested students seeking teacher licensure and practicing teachers may secure endorsement in health education, physical education, and other areas of student wellness.

(5) Upon the request of a school district or board of cooperative services, the department of education shall provide, within available resources, such technical assistance as may be necessary to develop a local comprehensive health education program or local student wellness program.

(6) (a) Any curriculum and materials developed and used in teaching sexuality and human reproduction shall include values and responsibility and shall give primary emphasis to abstinence by school aged children.

(b) School officials shall receive prior written approval from a parent or guardian before his or her child may participate in any program discussing or teaching sexuality and human reproduction. Parents must receive, with the written permission slip, an overview of the topics and materials to be presented in the curriculum.

(c) The provisions of paragraph (b) of this subsection (6) shall not apply to a local comprehensive health education program provided by a facility school.

(7) The department of education shall promulgate, in accordance with article 4 of title 24, C.R.S., such rules and regulations as may be necessary to carry out the duties of the department of education as set forth in this article.

**Source:** **L. 90:** Entire article R&RE. p. 1094, § 62, effective May 31. **L. 94:** (1) and (3)(a) amended, p. 2737, § 367, effective July 1. **L. 2000:** (4)(b) amended, p. 1855, § 52, effective August 2; (6) amended, p. 372. § 24, effective April 10. **L. 2007:** (3)(a) amended, p. 829, § 3, effective July 1. **L. 2008:** (1), (3)(b)(IV), and (6) amended, p. 1392, § 26, effective May 27; (1) to (5) amended, p. 673, § 4, effective August 5.

**Editor's note:** (1) This section is similar to former §§ 22-25-104, 22-25-105, and 22-25-106 as they existed prior to 1990.

(2) Amendments to subsection (1) by House Bill 08-1204 and House Bill 08-1224 were harmonized.

(3) Subsection (3)(b)(IV) was originally numbered as (3)(b)(III), and the amendments to it in House Bill 08-1204 were harmonized with subsection (3)(b)(IV) as amended and renumbered by House Bill 08-1224.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsections (1) and (3)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2007 act amending subsection (3)(a), see section 1 of chapter 212, Session Laws of Colorado 2007.



**22-25-104.5. Law-related education program - creation.** (1) (a) There is hereby created, within the Colorado department of education prevention initiatives unit, the Colorado law-related education program for the purpose of promoting behavior which will reduce through education the incidence of gang or other antisocial behavior and substance abuse by students in the public school system.

(b) Under the program, each school district and facility school in the state is strongly encouraged to implement a law-related education program pursuant to the requirements of this article, which program shall specifically address the development of resistance to antisocial gang behavior and substance abuse without compromising academics.

(2) (a) A law-related education program implemented by a school district or facility school may be designed to promote responsible citizenship and reduce antisocial behavior without compromising academics. Specific grade levels should be determined by school districts and facility schools based on local curricular frameworks and review of what is known about existing and promising programs. All topics addressed in such law-related education program shall be taught in a manner which is appropriate for the ages of the students to be instructed.

(b) The topics for instruction in a law-related education program shall include instruction on the United States constitution and the declaration of independence and may include, but need not be limited to, the following:

- (I) The rights and responsibilities of citizenship;
- (II) The foundations and principles of American constitutional democracy;
- (III) The role of law in American society;
- (IV) The organization and purpose of legal and political systems;
- (V) The disposition to abide by law;
- (VI) The opportunities for responsible participation;
- (VII) The alternative dispute resolution approach including mediation and conflict resolution.

(c) (Deleted by amendment, L. 2000, p. 372, 25, effective April 10, 2000.)

(3) and (4) (Deleted by amendment, L. 99, p. 106, § 1, effective March 24, 1999.)

(5) (a) The state board shall promulgate guidelines to provide grants to and to assist school districts and facility schools in the implementation of effective, comprehensive law-related education programs addressing gang awareness and substance abuse resistance. Such guidelines shall include, but shall not be limited to, the following:

- (I) Suggested topics for instruction;
  - (II) Suggested texts and other instructional materials; and
  - (III) The necessary training for instructors.
- (b) The state board shall make such guidelines available to all school districts and facility schools for use in implementing law-related education programs.

(c) The department of education, through the coordinator and staff of the prevention initiatives unit, shall be responsible for implementation, monitoring, and administration of the program and shall maintain certifications and records and act as a statewide clearing-house for information and assistance for the law-related education programs.

(6) (a) All school districts and facility schools are encouraged to create programs for the training of instructors and administrators in gang awareness and substance abuse resistance education in order to provide effective instruction to students concerning the dangers of gang involvement and substance abuse.

(b) Upon the request of school district officials, the state board shall assist school district officials in the preparation of plans for the creation by school districts of training programs for instructors and administrators in gang awareness and substance abuse resistance education.

(7) (a) Each school district and facility school may prepare an annual report concerning the progress of the school district or facility school in implementing a law-related education program. The report shall be filed with the state board on or before October 1 of each year.

(b) Each annual report prepared pursuant to paragraph (a) of this subsection (7) shall include, but shall not be limited to, an analysis by school district or facility school officials of the effect of the law-related education program on the incidence of gang involvement and substance abuse by the students in the school district or facility school.

**Source:** **L. 94:** Entire section added, p. 1257, § 3, effective May 22. **L. 99:** (3) to (6) amended, p. 106, § 1, effective March 24. **L. 2000:** IP(2)(b) and (2)(c) amended, p. 372, § 25, effective April 10. **L. 2006:** (7)(a) amended, p. 598, § 14, effective August 7. **L. 2008:** Entire section amended, p. 1393, § 27, effective May 27.

**22-25-105. Review of local comprehensive health education programs and local student wellness programs - allocation of funds by the state board of education.** (1) A school district, facility school, or board of cooperative services that is seeking funding for a local comprehensive health education program or a local student wellness program under this article shall file an application with the department of education in such form as the department of education shall require. An application for a local comprehensive health education program shall include provisions for the implementation of a law-related education program for the purpose of reducing the incidence of gang involvement and substance abuse by students through education.

(2) The commissioner or the commissioner's designee, with the assistance of the executive director of the department of public health and environment or his or her designee, shall review all applications for review of local comprehensive health education programs and local student wellness programs submitted to the department of education.

(3) (a) The state board of education shall establish a review and prioritization process for the allocation of available funds to school districts, boards of cooperative services, and facility schools based upon applications submitted to the department of education and giving due consideration to the guidelines developed pursuant to section 22-25-104 (3) (a). Funding may be made available to districts or facility schools to implement portions of a comprehensive health education program or portions of a local student wellness program that are coordinated with health education, according to the needs of the individual school district or facility school. Pursuant to the review and prioritization process, the state board of education shall allocate available funds to the applying school districts, boards of cooperative services, and facility schools based on whether the state board of education finds that a school district, a board of cooperative services, or a facility school has planned or developed a local comprehensive health education program or a local school wellness program that will serve the objectives of this article. Funding for local comprehensive health education programs and local school wellness programs may include, but shall not be limited to, the implementation of training programs, in-service education institutes, and curriculum development programs for staff who shall instruct in comprehensive health education or for staff who shall instruct in or otherwise provide services through student wellness programs that are coordinated with health education. The state board of education shall not allocate funds to school districts, boards of cooperative services, or facility schools pursuant to the provisions of this subsection (3) until the department determines the amount of money that will be available for allocation.

(b) If sufficient moneys are not available to fund programs in every school district, the department may establish pilot programs for school districts that express an interest in developing or expanding a local comprehensive health education program or one or more components of a local student wellness program, which components include and are coordinated with health education, and in which districts there is a need for a program.

(c) (Deleted by amendment, L. 2010, (SB 10-151), ch. 109, p. 364, § 1, effective July 1, 2010.)

(4) (a) A school district may receive funding for a local student wellness program only if it includes or is otherwise coordinated with health education.

(b) A school district or board of cooperative services may receive funding for a local student wellness program that includes physical education only if each person who teaches one or more physical education courses in the school district or for the board of cooperative services is licensed and endorsed pursuant to article 60.5 of this title in physical education; except that this requirement shall not apply to a school district that enrolls one thousand five hundred or fewer students.

**Source:** **L. 90:** Entire article R&RE, p. 1095, § 62, effective May 31. **L. 94:** (1) amended, p. 1261, § 4, effective May 22; (2) amended, p. 2738, § 368, effective July 1.



**L. 2008:** Entire section amended, p. 1394, § 28, effective May 27; entire section amended, p. 674, § 5, effective August 5. **L. 2010:** (3) amended, (SB 10-151), ch. 109, p. 364, § 1, effective July 1.

**Editor's note:** (1) This section is similar to former § 22-25-107 as it existed prior to 1990.

(2) Amendments to this section by House Bill 08-1204 and House Bill 08-1224 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-25-106. Local comprehensive health education programs - local student wellness programs - establishment of comprehensive health education advisory councils.**

(1) (a) Each school district and board of cooperative services may and is encouraged to establish a local comprehensive health education program. To ensure that a local comprehensive health education program reflects the health issues and values of the community, each school district or board of cooperative services may establish a comprehensive health education advisory council, or may add necessary representatives to the school district's accountability committee created pursuant to section 22-11-301 or other appropriate committee, to address and make recommendations to the school district or board of cooperative services concerning the curriculum of the local comprehensive health education program.

(b) Each school district and board of cooperative services is further encouraged to establish a local student wellness program that includes or is otherwise coordinated with health education. A school district's or board of cooperative services' comprehensive health education advisory council or accountability committee may address and make recommendations to the school district or the board of cooperative services concerning the local student wellness program, including but not limited to the programs to be provided and best practices and strategies for involving families and the community in the local student wellness programs.

(2) In establishing a comprehensive health education advisory council or in supplementing an accountability committee or other appropriate committee, the board of a school district or board of cooperative services is encouraged to appoint members of the community who represent various points of view within the school district concerning comprehensive health education; however, a majority of the committee shall be comprised of parents of children enrolled in the district. Members may include, but shall not be limited to, parents, a member of the clergy, teachers, school administrators, pupils, health care professionals, members of the business community, law enforcement representatives, senior citizens, and other interested residents of the school district.

(3) In addition to the requirements of section 22-25-104 (3) (b), each school district and board of cooperative services is encouraged to include instruction in its local comprehensive health education program which:

(a) Promotes parental involvement, promotes abstinence from high-risk behaviors, fosters positive self-concepts, develops decision-making skills, and provides mechanisms for coping with and resisting peer pressure;

(b) Focuses on the dynamic relationship among physical, mental, emotional, and social well-being; and

(c) Integrates available community resources into the educational program.

(4) (a) Each local comprehensive health education program which is adopted by a school district or board of cooperative services shall include a procedure to exempt a student, upon request of the parent or guardian of such student, from a specific portion of the program on the grounds that it is contrary to the religious beliefs and teachings of the student or the student's parent or guardian.

(b) Any local school district or board of cooperative services which adopts a local comprehensive health education program shall ensure that at a minimum the following public information requirements are met:

(I) Written notification of such local comprehensive health education program shall be given to the parents or guardians of all students within such school district or board of

cooperative services, including notification that a student is allowed an exemption which permits such a student, at the request of the parent or guardian of the student, to be excused from all or any part of the local comprehensive health education program; and

(II) The curriculum and materials to be used shall be made available for public inspection at reasonable times and reasonable hours and a public forum to receive public comment upon such curriculum and materials shall be held.

**Source:** **L. 90:** Entire article R&RE, p. 1096, § 62, effective May 31. **L. 92:** (4) amended, p. 550, § 28, effective May 28. **L. 2002:** (1) and (2) amended, p. 1018, § 27, effective June 1. **L. 2008:** (1) amended, p. 675, § 6, effective August 5. **L. 2009:** (1)(a) amended, (SB 09-163), ch. 293, p. 1533, § 20, effective May 21.

**22-25-107. Reports required.** (1) Each school district, facility school, or board of cooperative services that receives funding for a local comprehensive health education program or a local student wellness program pursuant to this article shall annually file a written report with the department of education concerning the status of the program. The report shall include such information and data as the department of education shall require, including but not limited to the information received in the public forum held pursuant to section 22-25-106 (4), if applicable. The report shall be filed on or before such date as the department of education shall determine.

(2) Repealed.

**Source:** **L. 90:** Entire article R&RE, p. 1097, § 62, effective May 31. **L. 94:** (2) amended, p. 2738, § 369, effective July 1. **L. 98:** (2) repealed, p. 1076, § 4, effective June 1. **L. 2008:** (1) amended, p. 1395, § 29, effective May 27; (1) amended, p. 676, § 7, effective August 5.

**Editor's note:** (1) This section is similar to former § 22-25-108 as it existed prior to 1990.

(2) Amendments to subsection (1) by House Bill 08-1204 and House Bill 08-1224 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-25-108. Participation of nonpublic school personnel.** Teachers, school nurses, or school administrators employed by a nonpublic school may participate as students in in-service education institutes or curriculum development programs conducted by school districts or boards of cooperative services pursuant to this article. At the discretion of the school district or board of cooperative services conducting such institutes or programs, such participants may be required to pay the pro rata share of the cost of participation.

**Source:** **L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31.

**Editor's note:** This section is similar to former § 22-25-109 as it existed prior to 1990.

**22-25-109. Colorado comprehensive health education fund - creation - acceptance of funds - repeal. (Repealed)**

**Source:** **L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31. **L. 94:** (1) amended, p. 812, § 22, effective April 27. **L. 2010:** (3) added, (SB 10-151), ch. 109, p. 365, § 2, effective April 15.

**Editor's note:** (1) This section was similar to former § 22-25-112 as it existed prior to 1990.

(2) Subsection (3) provided for the repeal of this section, effective July 1, 2010. (See L. 2010, p. 365.)



**22-25-110. Funding of existing programs - operation of other health education programs.** (1) Nothing in this article shall be interpreted to prevent a school district or board of cooperative services currently offering health education programs from being eligible to receive funding pursuant to this article.

(2) Nothing in this article shall be interpreted to require a school district or board of cooperative services to establish a local comprehensive health education program nor shall it be interpreted to prevent a school district or board of cooperative services from offering a health education program which is not operated under the requirements of this article; except that any school district or board of cooperative services offering such a health education program shall:

(a) Comply with the public information requirements contained in section 22-25-106 (4);

(b) Establish a procedure to exempt a student, upon request of the parent or guardian of such student, from a specific portion of the health education program on the grounds that it is contrary to the religious or personal beliefs and teachings of the student or the student's parent or guardian; and

(c) Unless the school district or board of cooperative services is receiving direct or indirect funding from the federal government for the provision of an abstinence education program pursuant to 42 U.S.C. sec. 710 as described in section 22-1-110.5 (9), comply with the requirements specified in section 22-1-110.5 (5) regarding the adoption of science-based content standards for instruction regarding human sexuality.

**Source:** **L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31. **L. 92:** (2) amended, p. 551, § 29, effective May 28. **L. 2007:** (2) amended, p. 829, § 4, effective July 1.

**Cross references:** For the legislative declaration contained in the 2007 act amending subsection (2), see section 1 of chapter 212, Session Laws of Colorado 2007.

## ARTICLE 26

### Gifted and Talented Students

#### 22-26-101 to 22-26-108. (Repealed)

**Source:** **L. 2011:** Entire article repealed, (HB 11-1077), ch. 30, p. 84, § 12, effective August 10.

**Editor's note:** This article was added in 1985. For amendments to this article prior to its repeal in 2011, consult the 2010 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For education of gifted children, see part 2 of article 20 of this title.

## ARTICLE 27

### Educational Clinics for Public School Dropouts

#### 22-27-101 to 22-27-110. (Repealed)

**Source:** **L. 2006:** Entire article repealed, p. 598, § 15, effective August 7.

**Editor's note:** This article was added in 1987. For amendments to this article prior to its repeal in 2006, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 27.5

Before- and After-School  
Dropout Prevention Programs

22-27.5-101.	Legislative declaration.		awarding grants.
22-27.5-102.	Definitions.	22-27.5-105.	Dropout prevention activity grant fund - created - administrative costs.
22-27.5-103.	Dropout prevention activity grant program - created - applications.	22-27.5-106.	Dropout prevention activity grant programs - report.
22-27.5-104.	Dropout prevention activity grant program - rules -		

**22-27.5-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The unacceptably high dropout rate in public schools in Colorado is detrimental to the economic and cultural health of the state, and the state should take additional measures to more fully and productively engage students in public education and thereby reduce this rate;

(b) Often, students who choose to drop out of school prior to graduation are bored with the standard classroom curriculum. Students who are involved with extracurricular school activities before or after school are more likely to be invested in their education and less likely to drop out of school.

(c) With the increased difficulties in funding public education and increased emphasis on core academic subjects, schools have been forced to focus their resources on teaching the core curriculum subjects of reading, writing, and mathematics and have been less able to fund visual arts or performing arts education or to provide career and technical education;

(d) Just as all students can learn, all students are talented to varying degrees in varying arts and endeavors. In addition to ensuring a student has the necessary skills in reading, writing, and mathematics to be successful in a career, educating a student should include providing the student the opportunity to experience and participate in a wide range of artistic and vocational activities to allow the student to discover his or her talents and be successful in life.

(e) A grant program to provide additional funding for schools to sponsor before- and after-school programs in visual arts and performing arts and in career and technical education subjects will have the combined benefits of providing a wider range of visual arts, performing arts, and career and technical education, exposing students to a wide range of opportunities in visual arts and performing arts, assisting students in obtaining skills in a wide variety of vocations, enabling students to discover their artistic and vocation-related talents, and providing greater incentives for some students to stay in school.

**Source:** **L. 2005:** Entire article added, p. 511, § 1, effective May 24. **L. 2010:** (1)(c) and (1)(e) amended, (HB 10-1273), ch. 233, p. 1024, § 15, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsections (1)(c) and (1)(e), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-27.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Arts-based activity program” means a before- or after-school program that provides students with an opportunity to learn about and participate in an activity in visual arts or performing arts.

(2) “Department” means the department of education, created and operating pursuant to section 24-1-115, C.R.S.

(3) “District board” means a school district board of education created pursuant to law.

(4) “Dropout prevention activity grant program” or “grant program” means the grant program created pursuant to section 22-27.5-103 to fund before- and after-school arts-based and vocational activity programs for students in grades six through twelve.



(4.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(5) "Fund" means the dropout prevention activity grant fund created pursuant to section 22-27.5-105.

(5.5) "Performing arts" shall have the same meaning as provided in section 22-1-104.5 (1) (b).

(6) "Qualified community organization" means a nonprofit or not-for-profit, nonsectarian, community-based organization that provides before- and after-school, arts-based or vocational activity programs to low-income youth enrolled in grades six through twelve.

(7) "Qualified school" means a public school, including but not limited to a charter school, that serves any of grades six through twelve and that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210 for the school year in which the public school seeks a grant through the grant program.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(8.5) "Visual arts" shall have the same meaning as provided in section 22-1-104.5 (1) (c).

(9) "Vocational activity program" means a before- or after-school program that provides students with an opportunity to learn and develop skills in a variety of vocations, including but not limited to carpentry, plumbing, welding, culinary arts, floral design, automotive maintenance, driver's training, and hotel and restaurant management.

**Source:** **L. 2005:** Entire article added, p. 512, § 1, effective May 24. **L. 2008:** (4.5) added, p. 1396, § 34, effective May 27. **L. 2009:** (7) amended, (SB 09-163), ch. 293, p. 1533, § 21, effective May 21. **L. 2010:** (1) amended and (5.5) and (8.5) added. (HB 10-1273), ch. 233, p. 1025, § 16, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (1) and adding subsections (5.5) and (8.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

### **22-27.5-103. Dropout prevention activity grant program - created - applications.**

(1) There is hereby created a grant program to fund before- and after-school arts-based and vocational activity programs for students enrolled in grades six through twelve. The goal in funding arts-based and vocational activity programs is to reduce the number of students who choose to drop out of school prior to graduation. A facility school, a qualified school, with the approval of its district board, or a qualified community organization in partnership with a qualified school may apply to the department, in accordance with procedures and time lines adopted by rule of the state board, to receive moneys through the dropout prevention activity grant program. The department shall administer the grant program as provided in this article and pursuant to rules adopted by the state board.

(2) In any year in which the department of education receives gifts, grants, or donations for the fund, the department of education shall notify the facility schools and the district boards, in the manner provided by rule of the state board, of the amount of money to be deposited in the fund and available for grants pursuant to this section. The notice may also specify the time and procedure for applying for a grant from the dropout prevention activity grant program. Each district board shall forward the notice to the qualified schools of the school district. The department shall also post the notice on the department web site as notice to qualified community organizations that may be interested in applying for moneys through the grant program.

(3) (a) A qualified school that chooses to seek a grant through the dropout prevention activity grant program shall notify its district board, specifying the amount requested and describing the arts-based or vocational activity program for which the grant would be used. The district board shall consider the qualified school's request and either approve or disapprove the qualified school's application. If the district board approves the application, the qualified school shall apply to the department, in accordance with the procedures and

using the application form specified by rule of the state board, for a grant through the dropout prevention activity grant program.

(b) Each district board shall adopt policies specifying the time frames during which a qualified school may request a dropout prevention activity grant and the procedure for the request. The district board shall ensure that its policies are coordinated with the rules of the state board to allow a qualified school to apply for a grant in accordance with the rules of the state board.

(c) A qualified school that receives a grant through the dropout prevention activity grant program shall use the moneys received to provide arts-based or vocational activity programs only to students enrolled in grades six through twelve.

(3.5) (a) A facility school that chooses to seek a grant through the dropout prevention activity grant program shall apply to the department, in accordance with the procedures and using the application form specified by rule of the state board, for a grant through the dropout prevention activity grant program.

(b) A facility school that receives a grant through the dropout prevention activity grant program shall use the moneys received to provide arts-based or vocational activity programs only to students enrolled in grades six through twelve.

(4) A qualified community organization that chooses to seek a grant through the dropout prevention activity grant program shall enter into a partnership agreement with a qualified school or a facility school pursuant to which the qualified community organization may operate an arts-based or vocational activity program in collaboration with the qualified school or facility school for students enrolled in any of grades six through twelve. At a minimum, the partnership agreement shall specify the amount of the grant to be requested from the grant program and describe the arts-based or vocational activity program for which the grant would be used. The qualified school's participation in the partnership agreement shall be subject to the approval of the school's district board. A qualified community organization that applies for a grant through the dropout prevention activity grant program shall submit a copy of the signed partnership agreement with its grant application.

**Source: L. 2005:** Entire article added, p. 513, § 1, effective May 24. **L. 2008:** (1), (2), and (4) amended and (3.5) added, p. 1397, § 35, effective May 27. **L. 2011:** (2) amended, (HB 11-1303), ch. 264, p. 1160, § 44, effective August 10.

#### **22-27.5-104. Dropout prevention activity grant program - rules - awarding grants.**

(1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of the dropout prevention activity grant program. At a minimum, the rules shall specify the procedures for applying for a grant, the form of the grant application, the information to be provided by the applicant, and the criteria for awarding grants.

(2) The department shall review each grant application received from a facility school, a qualified school, or a qualified community organization pursuant to section 22-27.5-103 and shall make recommendations to the state board concerning whether the grant should be awarded and the amount of the grant. If the department determines an application is missing any information required by rules to be included with the application, the department may contact the applicant to obtain the missing information. In making its recommendations, in addition to any criteria identified by rule of the state board, the department shall:

(a) Give first priority to applications to fund arts-based or vocational activity programs at qualified schools that experience high dropout rates for the three school years preceding the year in which the application is submitted and to fund arts-based or vocational activity programs at facility schools;

(b) Consider the percentage of students enrolled at the affected qualified school or facility school who are minority students or students who qualify for free or reduced-cost lunch pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., with the goal of funding arts-based and vocational activity programs at qualified schools and facility schools that enroll high percentages of minority students and students who qualify for free or reduced-cost lunch;



(c) Consider the format of the arts-based or vocational activity program for which funding is requested and determine the cost-effectiveness of the program, the number of students who will be able to participate, and the quality of the participatory experience offered, with the goal of funding arts-based and vocational activity programs that provide a large number of students the opportunity to directly participate in and experience an arts-based or vocational activity;

(d) Consider whether the arts-based or vocational activity program for which funding is requested includes a partnering relationship with businesses in the community or a component of community service, with the goal of funding those arts-based and vocational activity programs that demonstrate a connection with the community outside the school or facility school and provide a benefit to that community.

(3) In each year in which moneys are credited to the fund, the state board shall award grants to applicants through the dropout prevention activity grant program. The state board shall take into consideration the recommendations received from the department. In addition to any criteria adopted by rule, the state board in awarding grants shall apply the priority and considerations specified in subsection (2) of this section. A grant awarded pursuant to this article shall be valid for one year.

**Source: L. 2005:** Entire article added, p. 514, § 1, effective May 24. **L. 2008:** (2) amended, p. 1398, § 36, effective May 27.

**22-27.5-105. Dropout prevention activity grant fund - created - administrative costs.** (1) (a) There is hereby created in the state treasury the dropout prevention activity grant fund. The fund shall consist of any gifts, grants, or donations received by the department for the fund pursuant to subsection (2) of this section. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the dropout prevention activity grant program pursuant to this article.

(b) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The department is authorized to seek and accept gifts, grants, and donations from private or public sources for the implementation of the dropout prevention activity grant program pursuant to this article. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) The department may expend up to two percent of the moneys annually appropriated from the fund to offset the direct and indirect costs incurred in implementing the dropout prevention activity grant program pursuant to this article.

(4) (Deleted by amendment, L. 2011, (HB 11-1303), ch. 264, p. 1160, § 45, effective August 10, 2011.)

**Source: L. 2005:** Entire article added, p. 515, § 1, effective May 24. **L. 2011:** (1)(a) and (4) amended, (HB 11-1303), ch. 264, p. 1160, § 45, effective August 10.

**22-27.5-106. Dropout prevention activity grant programs - report.** (1) Each facility school, qualified school, and qualified community organization that receives a dropout prevention activity program grant shall, in each year that it receives the grant, report to the department a description of the arts-based or vocational activity program and the projects accomplished through the program and an indication of the number of students who participated in the program.

(2) On or before January 15, 2007, and on or before January 15 each year thereafter, the department shall report to the education committees of the house of representatives and the senate and to the governor the following information from the preceding school year:

- (a) The number and amounts of dropout prevention activity program grants awarded;
- (b) A description of the arts-based and vocational activity programs that received grants;
- (c) The number of students who participated in the arts-based and vocational activity programs that received grants; and
- (d) The student dropout rates of the qualified schools at which the funded arts-based and vocational activity programs were operated.

**Source: L. 2005:** Entire article added, p. 516, § 1, effective May 24. **L. 2008:** (1) amended, p. 1398, § 37, effective May 27.

## ARTICLE 28

### Colorado Preschool Program Act

22-28-101.	Short title.		provided by a head start agency or child care agencies.
22-28-102.	Legislative declaration.		
22-28-103.	Definitions.		
22-28-104.	Establishment of public pre-school programs.	22-28-110.	Parental involvement in district preschool programs.
22-28-104.5	Public charter school pre-schools.	22-28-111.	Coordination of district pre-school program with extended day services.
22-28-105.	District preschool program advisory council - duties.	22-28-111.5.	Coordination of district pre-school program with family support services - establishment of parenting program.
22-28-106.	Eligibility of children for participation in district pre-school program.	22-28-112.	Reports to legislative committees.
22-28-107.	Eligibility of school districts for participation in Colorado preschool program.	22-28-113.	Repeal of article. (Repealed)
22-28-108.	Criteria for district preschool programs.	22-28-114.	Change of program name - direction to revisor - authorization.
22-28-109.	District preschool programs		

**22-28-101. Short title.** This article shall be known and may be cited as the “Colorado Preschool Program Act”.

**Source: L. 88:** Entire article added, p. 824, § 40, effective May 24. **L. 92:** Entire section amended, p. 487, § 2, effective May 26. **L. 2006:** Entire section amended, p. 683, § 25, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1952, § 44, effective August 5.

**22-28-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that there are substantial numbers of children in this state entering kindergarten and the primary grades who are not adequately prepared to learn. The general assembly further finds that early school failure may ultimately contribute to such children dropping out of school at an early age, failing to achieve their full potential, becoming dependent upon public assistance, or becoming involved in criminal activities. By enacting this article, the general assembly acknowledges the need to adequately prepare all children to learn through preschool programs in school districts with high dropout rates or low performance of children in kindergarten and primary grades. In establishing the programs, the general assembly encourages school districts and parents to work together to ensure that the children benefit from the programs.

(2) The general assembly intends to fully fund the Colorado preschool program by increasing the number of children who may be served through the program over the 2006-07, 2007-08, and 2008-09 budget years.



**Source:** **L. 88:** Entire article added, p. 824, § 40, effective May 24. **L. 92:** Entire section amended, p. 487, § 3, effective May 26. **L. 2006:** Entire section amended, p. 683, § 26, effective April 28. **L. 2008:** (1) amended, p. 1224, § 35, effective May 22. **L. 2009:** (2) amended, (SB 09-292), ch. 369, p. 1952, § 45, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Board of education” means the board of education of a school district.

(1.5) “Charter authorizer” means a school district, the state charter school institute, or the board of the Colorado school for the deaf and the blind acting in the capacity of authorizing a public charter school.

(1.7) “Charter school” means a charter school authorized pursuant to part 1 of article 30.5 of this title, an institute charter school authorized pursuant to part 5 of article 30.5 of this title, or a charter school authorized pursuant to section 22-80-102 (4) (b).

(2) “Child care agency” means a facility defined as a child care center pursuant to the provisions of section 26-6-102 (1.5), C.R.S.

(2.5) “Colorado preschool program” means all the district preschool programs established in the state pursuant to the provisions of this article.

(3) “Department” means the department of education.

(4) “District advisory council” means the district preschool program advisory council established by a school district pursuant to the provisions of section 22-28-105.

(5) “District preschool program” means a preschool program established by a school district pursuant to the provisions of section 22-28-107.

(6) “Head start agency” means the local public or private nonprofit agency designated by the federal department of health and human services to operate a head start program under the provisions of Title V of the federal “Economic Opportunity Act of 1964”, as amended.

(7) “Parent” includes a legal guardian or any other person who has physical custody of the child.

(8) “School district” means any public school district organized under the laws of Colorado or an institute charter school created pursuant to part 5 of article 30.5 of this title. “School district” shall not include a junior college district.

(8.5) “State board” means the state board of education created pursuant to section 1 of article IX of the state constitution.

(9) (Deleted by amendment, L. 2008, p. 1224, § 36, effective May 22, 2008.)

**Source:** **L. 88:** Entire article added, p. 825, § 40, effective May 24. **L. 92:** (9) amended, p. 492, § 11, effective May 26. **L. 96:** (2) amended, p. 266, § 18, effective July 1. **L. 2006:** (4), (5), and (9) amended and (8.5) added, p. 684, § 27, effective April 28. **L. 2007:** (8) amended, p. 743, § 23, effective May 9. **L. 2008:** (2.5) added and (5) and (9) amended, p. 1224, § 36, effective May 22. **L. 2009:** (4) amended, (SB 09-292), ch. 369, p. 1953, § 46, effective August 5. **L. 2012:** (1.5) and (1.7) added, (HB 12-1240), ch. 258, p. 1332, § 50, effective June 4.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (2.5) and amending subsections (5) and (9), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-104. Establishment of public preschool programs.** (1) There is hereby established a Colorado preschool program, which shall be implemented in school districts beginning in the 2006-07 budget year. The purposes of the program are:

(a) To serve three-year-old, four-year-old, and five-year-old children who lack overall learning readiness due to significant family risk factors, who are in need of language development, or who are receiving services from the department of human services

pursuant to article 5 of title 26, C.R.S., as neglected or dependent children and who would benefit from participation in the Colorado preschool program;

(b) To determine the school districts in which participation in the Colorado preschool program would be the most beneficial;

(c) To establish criteria to be followed by school districts in establishing district preschool programs; and

(d) To encourage parents to participate with their children in district preschool programs.

(2) (a) (I) and (II) (Deleted by amendment, L. 2008, p. 1224, § 37, effective May 22, 2008.)

(III) For the 2008-09 budget year and each budget year thereafter, twenty thousand one hundred sixty children may annually participate in the Colorado preschool program.

(b) (I) For the 2006-07 and 2007-08 budget years, the department shall allow school districts to apply to the department for authorization to serve no more than fifteen percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of this subsection (2) through a full-day kindergarten portion of the district's preschool program. The department, using established criteria, shall select school districts to participate in the full-day kindergarten portions until the total number of full-day kindergarten positions applied for has been filled or the fifteen-percent limitation has been reached, whichever event occurs first. Notwithstanding any other provision of law, the department shall not grant waivers that would allow more than a total of fifteen percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of this subsection (2) to be served through the full-day kindergarten portion of all district preschool programs statewide.

(II) For the 2008-09 budget year and each budget year thereafter, none of the children participating in the Colorado preschool program shall participate in the program through a full-day kindergarten portion of the program.

(c) If a school district that participates in the Colorado preschool program does not enroll the maximum number of pupils allowed to participate in that school district's preschool program as established by the department in accordance with section 22-28-107 (3), the school district shall immediately notify the department of the number of unused positions. A school district participating in the Colorado preschool program that has any unused positions in a given budget year is prohibited from transferring to another school district any or all of the unused positions, regardless of whether the unused positions are transferred in exchange for monetary or any other form of consideration.

(3) A school district that participates in the Colorado preschool program shall be entitled to count children enrolled in the district preschool program in accordance with the provisions of section 22-54-103 (9.5) for purposes of determining preschool program enrollment under the "Public School Finance Act of 1994", article 54 of this title.

(4) (a) Subject to the limitations in paragraph (b) of this subsection (4), the per pupil operating reimbursement provided to any school district that participates in the Colorado preschool program shall be increased to allow a single child to enroll in the program using two positions so that the child may attend a full day of preschool.

(b) For the 2006-07 budget year and budget years thereafter, the department shall allow school districts to apply for authorization to serve no more than five percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of subsection (2) of this section through a full-day preschool portion of the district's preschool program. The department, using established criteria, may select qualified school districts to participate in and serve children through a full-day preschool portion of the district's preschool program. Notwithstanding any other provision of law, the department shall not grant waivers that would allow more than a total of five percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of subsection (2) of this section to be served through the full-day preschool portion of all district preschool and kindergarten programs statewide.

(5) Nothing in this article shall be construed to:

(a) Require school districts to participate in the Colorado preschool program; or



(b) Prohibit school districts from establishing and maintaining other preschool programs using any funds available for that purpose, but children enrolled in such other preschool programs shall not be counted for purposes of determining preschool program enrollment or pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title.

**Source:** **L. 88:** Entire article added, p. 825, § 40, effective May 24. **L. 88, 1st Ex. Sess.:** (3) and (4) amended, p. 56, § 6, effective August 11. **L. 90:** (2) amended, p. 1077, § 29, effective May 31. **L. 92:** IP(1), (1)(a), (1)(b), and (2) to (4) amended, p. 488, § 4, effective May 26. **L. 94:** (2) and (3) amended, pp. 804, 812, §§ 4, 23, effective April 27; (1)(a) amended, p. 2690, § 217, effective July 1. **L. 95:** (2)(b) amended, p. 607, § 2, effective May 22; (4) amended, p. 1110, § 63, effective May 31. **L. 96:** (2)(b)(II) amended, p. 1798, § 15, effective June 4. **L. 98:** (2)(b)(II) and (2)(c) amended and (2)(d) added, p. 972, § 15, effective May 27. **L. 99:** (2)(d)(I) amended, p. 178, § 8, effective March 30. **L. 2000:** (3.5) added, p. 820, § 4, effective July 1. **L. 2001:** (2)(d)(I) amended and (2)(d)(III) and (2)(d)(IV) added, p. 340, § 3, effective April 16. **L. 2002:** (1)(a.5), (2)(d)(III.1), (2)(d)(III.2), and (2)(d)(III.3) added and (2)(d)(I) amended, pp. 1739, 1738, §§ 11, 10, effective June 7. **L. 2003:** (2)(d)(II) amended, p. 515, § 3, effective March 5; (2)(d) and (3) amended, p. 2125, § 18, effective May 22. **L. 2005:** (2)(d)(I)(A) and (2)(d)(I)(E) amended and (2)(d)(I)(F) added, p. 438, § 15, effective April 29. **L. 2006:** Entire section R&RE, p. 684, § 28, effective April 28. **L. 2007:** (2)(a) amended, p. 739, § 11, effective May 9. **L. 2008:** IP(1), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(b), (3), (4)(a), and (5)(b) amended, pp. 1224, 1209, §§ 37, 20, effective May 22. **L. 2009:** (1), (2)(a)(III), (2)(b), (2)(c), (3), (4), and (5)(a) amended, (SB 09-292), ch. 369, p. 1953, § 47, effective August 5.

**Editor's note:** Subsection (2)(d)(II) was originally numbered as subsection (2)(d)(III.2), and the amendments to it in Senate Bill 03-183 were harmonized with Senate Bill 03-248 and renumbered as subsection (2)(d)(II).

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1) and subsections (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(b), (3), (4)(a), and (5)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-104.5. Public charter school preschools.** (1) Notwithstanding any provision of this article to the contrary, a charter school that is permitted by its charter authorizer to operate a kindergarten program may plan, develop, and operate a public preschool program that is consistent with the provisions of this article.

(2) A charter school that operates a public preschool program with funding received pursuant to this article or, consistent with section 22-28-104 (5) (b), without such funding, shall ensure that the public preschool program:

(a) Enrolls students consistent with section 22-30.5-104 (3) to ensure a diverse student body;

(b) Operates in a facility approved and licensed for preschool purposes that is the same facility or that is in reasonable proximity to the facility at which the charter school operates the kindergarten program or at a location that is approved by the charter authorizer; and

(c) Guarantees a student's continued enrollment from preschool to kindergarten to the extent allowed by law.

**Source:** **L. 2012:** Entire section added. (HB 12-1240), ch. 258, p. 1332, § 51, effective June 4.

**22-28-105. District preschool program advisory council - duties.** (1) (a) Any school district wishing to participate in the Colorado preschool program shall establish a district preschool program advisory council consisting of the superintendent of the school

district or his or her designee and such other members as the superintendent of the school district may appoint pursuant to paragraph (b) of this subsection (1).

(b) The appointed members of the district advisory council shall include, but shall not be limited to, the following:

- (I) Two parents of children in the district preschool program;
- (II) Two members of the business community; and
- (III) Representatives from the following:
  - (A) The county or district department of health;
  - (B) The county department of social services;
  - (C) The county agency involved in job services and training;
  - (D) Publicly funded early childhood education agencies located in the school district;
  - (E) Privately funded child care centers located in the school district; and
  - (F) A representative from a charter school located in the district that has a preschool program.

(c) The members appointed by the superintendent of the school district shall serve for two-year terms, and any vacancy among the appointed members shall be filled by appointment by the superintendent for the unexpired term. Members of the council shall elect a chairperson for a one-year term, but the chairperson may be elected to a second term.

(d) The board of education shall have final responsibility for submittal of the application to participate in the Colorado preschool program and for operation and maintenance of the district preschool program. No action taken by the district advisory council shall be final until approved by the board of education.

(2) The district advisory council shall:

(a) Develop and recommend to the board of education the school district plan for identifying those children in the school district that would be eligible for participation in the district preschool program based upon the criteria established in section 22-28-106 (1) (a);

(a.3) Study and assess the need for establishing a district preschool program in the school district and, upon completion of such assessment, if there is an identified need, submit a request for proposals to any privately funded child care center and publicly funded early childhood education agency. The request for proposals shall state the criteria and guidelines established by the department for determining the eligibility of children to participate in a district preschool program, for district preschool programs, and for parental involvement in a district preschool program. At least once every two years, the district advisory council shall assess whether alternative community providers are available and shall ensure the highest quality service delivery at the lowest cost.

(a.5) Review and evaluate proposals received pursuant to paragraph (a.3) of this subsection (2) and annually submit a list to the board of education of the head start agencies or public and private child care agencies that are licensed by the department of human services and are in good standing whose proposals meet or exceed the criteria and guidelines specified in said paragraph (a.3) and are designated as eligible for participation in the district preschool program, including the number of district preschool children each agency will be eligible to serve under the program;

(b) Recommend to the board of education a plan for operating the district preschool program, including whether the program should be provided by the school district itself or provided, in whole or in part, by a head start agency or by child care agencies under contract with the school district;

(c) Recommend to the board of education a proposal for the district preschool program to be submitted to the department pursuant to the provisions of section 22-28-107 (1);

(d) Assist the school district in the implementation of the district preschool program;

(e) Develop and recommend to the board of education, if appropriate, a plan for coordinating the district preschool program with extended day services for children participating in the program and their families in order to achieve an increased efficiency in the services provided;

(f) Following consultation and planning with social services and health agencies, develop and recommend to the board of education a plan for coordinating the district preschool program with family support services for children participating in the program



and their families. For purposes of this paragraph (f), “family support services” includes, but is not limited to, information and referral and educational materials relating to:

- (I) Nutrition;
- (II) Immunization;
- (III) Health care and dental care generally;
- (IV) Parenting education and support; and
- (V) Social services programs generally.

(g) Develop and recommend to the board of education a plan for coordinating the district preschool program with a program to train parents to provide teaching activities in the home prior to the entrance of their children into the district preschool program;

(h) Meet a minimum of six times per year. In addition, the district advisory council shall make at least two on-site visits per year to all head start agencies and public and private child care facilities with which the school district has contracted to monitor overall program compliance and make recommendations for any needed improvements.

(i) Define any student eligibility criteria specific to the population of the individual community that are in addition to the criteria listed in section 22-28-106 (1) (a);

(j) Develop a district preschool program evaluation component specific to the district preschool program involved;

(k) Develop a training program for district preschool program staff using all available community resources;

(l) Recommend to the board of education a plan for the annual evaluation of the district preschool program; and

(m) Provide any other appropriate assistance to the school district in the implementation of the district preschool program.

**Source:** **L. 88:** Entire article added, p. 826, § 40, effective May 24. **L. 92:** (1) and IP(2) amended and (2)(a.3), (2)(a.5), (2)(e.3), (2)(e.7), (2)(e.8), (2)(e.9), (2)(e.10), and (2)(e.11) added, pp. 492, 488, §§ 12, 5, effective May 26. **L. 96:** (2)(a.5) amended, p. 1798, § 18, effective July 1. **L. 2001:** (2)(a.3) amended, p. 161, § 1, effective March 28; (2)(e.9) amended, p. 210, § 2, effective August 8. **L. 2006:** Entire section amended, p. 686, § 29, effective April 28. **L. 2007:** (2)(a.3) amended, p. 739, § 12, effective May 9. **L. 2008:** (1)(d) amended, p. 1225, § 38, effective May 22; (2) amended, p. 1897, § 73, effective August 5. **L. 2009:** (1)(a), (1)(b)(I), (1)(d), (2)(a), (2)(a.3), (2)(a.5), (2)(b), (2)(c), (2)(d), (2)(e), IP(2)(f), (2)(g), (2)(j), (2)(k), (2)(l), and (2)(m) amended, (SB 09-292), ch. 369, p. 1954, § 48, effective August 5. **L. 2012:** (1)(b)(III)(D) and (1)(b)(III)(E) amended and (1)(b)(III)(F) added, (HB 12-1240), ch. 258, p. 1333, § 52, effective June 4.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1)(d), see section 1 of chapter 286, Session Laws of Colorado 2008.

## **22-28-106. Eligibility of children for participation in district preschool program.**

(1) (a) The state board shall establish, by rule, criteria for each school district to use in determining which children in the school district shall be eligible for participation in the district preschool program, subject to the following requirements:

(I) A child who is three, four, or five years old and meets the criteria specified in subparagraphs (II) to (IV) of this paragraph (a) and any other criteria established by rule may participate in the district preschool program.

(II) No child shall participate in the district preschool program unless the child lacks overall learning readiness due to significant family risk factors, is in need of language development, including but not limited to the ability to speak English, or is receiving services from the department of human services pursuant to article 5 of title 26, C.R.S., as a neglected or dependent child; except that no child who is three years of age shall participate in the district preschool program unless the child lacks overall learning readiness that is attributable to at least three of the significant family risk factors.

(III) No child shall participate in the district preschool program unless one or both of his or her parents agree to assume all the parental responsibilities established by the school district pursuant to section 22-28-110 with respect to the program.

(IV) Any child qualifying for similar district services under other programs would continue to be eligible only for such services and would be funded under such programs.

(a.5) For purposes of this article, "significant family risk factors" means any of the following:

(I) The child is eligible to receive free or reduced-cost lunch pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(II) Homelessness of the child's family;

(III) An abusive adult residing in the home of the child;

(IV) Drug or alcohol abuse in the child's family;

(V) Either parent of the child was less than eighteen years of age and unmarried at the time of the birth of the child;

(VI) The child's parent or guardian has not successfully completed a high school education or its equivalent;

(VII) Frequent relocation by the child's family to new residences; or

(VIII) Poor social skills of the child.

(b) The department may establish criteria so that any or all of the following may be considered:

(I) The educational background of the child's parents or other family members, including but not limited to the number of years of education, attendance record, and academic performance; and

(II) The self-confidence of the child and the ability of the child to take part in social activities.

(2) Repealed.

**Source:** **L. 88:** Entire article added, p. 827, § 40, effective May 24. **L. 88, 1st Ex. Sess.:** (2) amended, p. 56, § 7, effective August 11. **L. 92:** (1)(a)(II) amended and (2) repealed, pp. 490, 493, §§ 6, 13, effective May 26. **L. 94:** (1)(a)(II) amended, p. 2690, § 218, effective July 1. **L. 2001:** (1)(a.5) added, p. 210, § 3, effective August 8. **L. 2002:** IP(1)(a), (1)(a)(I), and (1)(a)(II) amended, p. 1739, § 12, effective June 7. **L. 2006:** (1)(a) amended, p. 689, § 30, effective April 28; (1)(a)(I) amended, p. 605, § 16, effective August 7. **L. 2009:** IP(1)(a), (1)(a)(I), (1)(a)(II), and (1)(a)(III) amended, (SB 09-292), ch. 369, p. 1956, § 49, effective August 5.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 06-1375 and Senate Bill 06-137 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a)(II), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2001 act enacting subsection (1)(a.5), see section 1 of chapter 85, Session Laws of Colorado 2001.

**22-28-107. Eligibility of school districts for participation in Colorado preschool program.** (1) By a date to be determined by rule of the state board for the 2006-07 budget year and each budget year thereafter, any school district may apply to the department for participation in the Colorado preschool program using forms provided by the department. Along with the application, the school district shall submit a proposal for the implementation of its district preschool program, which shall include, but need not be limited to, the following information requested by the department:

(a) The number of eligible children to be served in the district preschool program;

(b) Whether the district preschool program will be a four-and-one-half-month, nine-month, or twelve-month program;

(c) Whether the district preschool program will be provided by the school district itself or provided, in whole or in part, by a head start agency or one or more child care agencies under contract with the school district;

(d) If the district preschool program is to be provided by the school district:

(I) The number of schools in the school district that would be involved in the district preschool program;



- (II) The number of additional personnel needed to staff the district preschool program;
- (III) The training program for preschool teachers;
- (e) If the district preschool program is to be provided, in whole or in part, by a head start agency or child care agencies under contract with the school district:

(I) The head start agency or child care agencies with which the school district will contract;

(II) The terms of the contracts;

(III) The procedure to be used to monitor the district preschool program being provided to the school district by the head start agency or child care agencies;

(f) The extended day services, if any, to be provided in connection with the district preschool program;

(f.3) The plan for coordinating the district preschool program with family support services for children participating in the program and their families;

(f.4) The plan for involving the parent or parents of each child enrolled in the district preschool program in participation in the program;

(f.7) The plan for coordinating the district preschool program with a parenting program;

(g) The plan for involving parents and the community in the district preschool program; and

(h) The procedure to be followed to evaluate the current and continuing effectiveness of the district preschool program.

(1.4) For the 2008-09 budget year and each budget year thereafter, a school district that applies to the department to participate in the Colorado preschool program by offering a nine-month program may apply for permission from the department to receive funding for a nine-month program but to use up to half of the moneys allocated for the program to prepare, during the first half of the school year, to offer a preschool program and to use the remainder of the moneys to offer, during the second half of the school year, a four-and-one-half-month preschool program.

(1.5) Repealed. / (Deleted by amendment, L. 2006, p. 689, § 31, effective April 28, 2006.)

(2) The state board shall establish, by rule, criteria for determining which school districts shall be eligible for participation in the Colorado preschool program. The state board may consider any or all of the following:

(a) The number of eligible children to be served by the district preschool program;

(b) The number of schools in the school district or the number of head start agencies or child care agencies that would be involved in the district preschool program;

(c) The dropout rate of the school district;

(d) The test scores of children in kindergarten and the primary grades within the school district;

(e) The community involvement in the school district; and

(f) The demographic and geographic distribution of school districts making application for or participating in the Colorado preschool program throughout the state.

(3) The department shall evaluate each school district's application, using the criteria established pursuant to subsection (2) of this section as well as the proposal of the school district for the implementation of the district preschool program based upon the criteria established pursuant to section 22-28-108. The department shall give priority to school districts with proposals that include exemplary plans for the coordination of the district preschool program with family support services, to school districts with proposals that indicate efforts to collaborate with public and private child care agencies located in the school district, and to school districts with proposals that demonstrate the greatest degree of community involvement. By a date to be determined by rule of the state board for the 2006-07 budget year and for each budget year thereafter, the department shall determine the school districts that have been accepted for participation in the Colorado preschool program. To comply with the limitations on the number of children that may participate in the Colorado preschool program, the department shall set the maximum number of pupils in the district preschool program for each participating school district.

(4) (a) Upon the request of a school district, the department shall provide, subject to available resources, such technical assistance as may be necessary for the school district to

submit a proposal for the implementation of its district preschool program and for ongoing training of personnel for the successful implementation of the program.

(b) The department shall annually select a reasonable number of school districts that have implemented preschool programs pursuant to this article and shall conduct on-site visits to determine whether:

(I) Each school district's screening process and the eligibility criteria for children participating in the district preschool program comply with all applicable state law;

(II) The district advisory council established pursuant to section 22-28-105 complies with all applicable state law; and

(III) The school district's quality assurance activities, evaluation efforts, and financial activities regarding the district preschool program comply with all applicable state law.

**Source:** **L. 88:** Entire article added, p. 827, § 40, effective May 24. **L. 92:** IP(1), IP(2), and (3) amended and (1)(f.3), (1)(f.4), (1)(f.7), and (1.5) added, pp. 490, 491, §§ 7, 8, effective May 26. **L. 2001:** (4) added, p. 85, § 1, effective March 20. **L. 2006:** Entire section amended, p. 689, § 31, effective April 28; (1.5) repealed, p. 605, § 17, effective August 7. **L. 2008:** IP(1), (1)(b), IP(1)(d), (1)(d)(III), and IP(4)(b) amended and (1.4) added, pp. 1210, 1225, §§ 21, 39, effective May 22. **L. 2009:** (1)(a), (1)(c), (1)(d)(I), (1)(d)(II), IP(1)(e), (1)(e)(III), (1)(f), (1)(f.3), (1)(f.4), (1)(f.7), (1)(g), (1)(h), (1.4), IP(2), (2)(a), (2)(b), (2)(f), (3), (4)(a), (4)(b)(I), and (4)(b)(III) amended, (SB 09-292), ch. 369, p. 1957, § 50, effective August 5.

**Editor's note:** (1) Amendments to subsection (1.5) by House Bill 06-1375 and Senate Bill 06-137 were harmonized.

(2) Amendments to the introductory portion to subsection (1) by sections 21 and 39 of House Bill 08-1388 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1), subsection (1)(b), the introductory portion to subsection (1)(d), subsection (1)(d)(III), and the introductory portion to subsection (4)(b) and enacting subsection (1.4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-108. Criteria for district preschool programs.** (1) (a) The department shall establish basic program standards for district preschool programs using nationally accepted standards for preschool programs and requiring compliance with the Colorado rules for child care centers promulgated by the department of human services pursuant to section 26-6-106, C.R.S.

(b) The state board shall establish, by rule, criteria for school districts to use in establishing district preschool programs, subject to the following requirements:

(I) The maximum number of pupils in a district preschool program shall not exceed the number set by the department pursuant to section 22-28-107 (3).

(II) The maximum number of pupils in a preschool class shall not exceed sixteen.

(III) Preschool classes shall be held for the equivalent of four half days per week with the remaining time being used for home visits by preschool teachers, teacher training as needed, workshops with other preschool teachers, and planning sessions with kindergarten teachers and other school staff.

(IV) Preschool classes shall be supplemented by teaching activities in the home between each pupil and the pupil's parent. An individual teaching plan shall be created for the pupil by his preschool teacher, and the school district shall provide the parent with the books and other materials necessary to carry out such teaching plan.

(1.6) The criteria established by the state board shall require that each head start agency and public and private child care agency that is providing services under the district preschool program afford all children that are eligible under section 22-28-106 an equal opportunity to receive services regardless of their race, ethnicity, or place of residence within the school district.

(2) In addition to the criteria established pursuant to subsection (1) of this section, the state board shall establish, by rule, additional criteria for school districts to use in



establishing district preschool programs that will be provided, in whole or in part, by a head start agency or child care agencies in accordance with the provisions of section 22-28-109.

(3) In establishing criteria for district preschool programs relating to qualifications for preschool teachers, the state board shall not require preschool teachers to be licensed pursuant to article 60.5 of this title but shall allow the school district, a head start agency, or a child care agency to employ a nonlicensed preschool teacher as long as the teacher meets other qualifications established by the state board.

(4) The criteria established by the state board shall be made available to each school district no later than August 1 of each year and shall be used by the district advisory council and the school district in drawing up the district preschool program proposal to be submitted with the school district's application for participation in the Colorado preschool program.

(5) Any school district whose district preschool program proposal does not meet the requirements of the state board shall be allowed to modify its proposal so that it meets said requirements. Notice to the department of said modifications shall be a prerequisite to final acceptance in the Colorado preschool program.

(5.5) Funding provided pursuant to this article shall only be used to pay a district's costs of providing preschool services directly to children enrolled in the district's preschool program. The costs shall include teacher and paraprofessional salaries and benefits, supplies and materials, home visits, the entire cost of any preschool program contracted services, the costs of services provided by a district to children enrolled in the district's preschool program or their parents, any associated professional development activities, costs that a district would not otherwise have incurred but for the services provided in conjunction with the preschool program, and a reasonable allocation of district overhead costs not to exceed five percent of the program costs. Any moneys remaining in the district's preschool program budget at the end of any budget year shall remain in the program budget for use in the preschool program in subsequent budget years.

(6) At any time during the year, the department may request from a school district any information about its district preschool program that the department deems necessary to ensure that the district is complying with the requirements of this section.

**Source:** **L. 88:** Entire article added, p. 829, § 40, effective May 24. **L. 92:** (1), (4), and (5) amended, p. 493, § 14, effective May 26. **L. 94:** (1)(a) amended, p. 2690, § 219, effective July 1. **L. 96:** (1.6) added, p. 1799, § 19, effective July 1. **L. 2000:** (3) amended, p. 1855, § 54, effective August 2. **L. 2002:** (1)(a) amended, p. 1785, § 49, effective June 7. **L. 2006:** (1)(a), IP(1)(b), (1)(b)(I), (1.6), (2), (3), (4), (5), and (6) amended, p. 692, § 32, effective April 28. **L. 2007:** (1)(b)(II) amended, p. 739, § 13, effective May 9. **L. 2008:** (1)(a), IP(1)(b), and (1)(b)(II) amended and (5.5) added, pp. 1226, 1210, §§ 40, 22, effective May 22. **L. 2009:** (1)(b)(I), (1.6), (2), (3), (4), (5), and (6) amended, (SB 09-292), ch. 369, p. 1959, § 51, effective August 5.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (1)(a), the introductory portion to subsection (1)(b), and subsection (1)(b)(II) and enacting subsection (5.5), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-109. District preschool programs provided by a head start agency or child care agencies.** (1) The state recognizes that there is significant value in using existing and established infrastructure through a head start agency or child care agencies, where available, for the provision of a district preschool program. Before the board of education of any school district whose pupil enrollment was less than or equal to seven hundred fifty pupils for the preceding budget year expends money for capital projects to provide additional facilities for a district preschool program, the board shall consider whether the district preschool program may be contracted out, in whole or in part, to a head start agency or one or more child care agencies located in the school district. The board of any school district, regardless of pupil enrollment, may contract out the district preschool program only if the provisions of this section are satisfied. In making its determination on whether to

contract out the district preschool program, the board shall consider the recommendation of the district advisory council along with the following:

(a) Whether there is an established preschool program being provided by the school district or by a head start agency or one or more child care agencies that could be expanded or modified to include the district preschool program;

(b) Whether the district preschool program could be provided more efficiently by a head start agency or one or more child care agencies while still maintaining a quality program;

(c) Whether the head start agency or the child care agencies could provide a district preschool program that would meet the criteria established by the state board pursuant to the provisions of section 22-28-108 (1) and (2);

(d) Whether the school district or the head start agency or child care agencies providing the district preschool program could also provide extended day services for children enrolled in the program in need of such services.

(2) No board of education shall contract out the district preschool program unless the board is assured that the head start agency or child care agency will provide a quality program meeting the requirements of section 22-28-108 (1) and (2). At any time during the year, the board may request from the agency any information about the program that the board deems necessary to ensure that the agency is complying with said requirements. In addition, the board of education shall ensure that the services provided by the head start agency or child care agency with respect to the district preschool program shall be in addition to services then currently provided by said agency and that the moneys transmitted to said agency for the services provided in the district preschool program shall not supplant moneys available to fund other services provided by said agency.

(3) If the district preschool program is contracted out pursuant to the provisions of subsection (1) of this section, the board of education and the head start agency or child care agencies shall develop a plan for the transition of children from the preschool portion of the program to kindergarten.

**Source:** **L. 88:** Entire article added, p. 830, § 40, effective May 24. **L. 96:** IP(1) amended, p. 1799, § 20, effective July 1. **L. 2006:** Entire section amended, p. 693, § 33, effective April 28. **L. 2007:** IP(1) amended, p. 740, § 14, effective May 9. **L. 2008:** IP(1), (1)(a), and (3) amended, p. 1226, § 41, effective May 22. **L. 2009:** (1)(b), (1)(c), (1)(d), and (2) amended, (SB 09-292), ch. 369, p. 1960, § 52, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1) and subsections (1)(a) and (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-110. Parental involvement in district preschool programs.** In establishing criteria for district preschool programs pursuant to the provisions of section 22-28-108, the state board shall include guidelines for a school district to follow in establishing the responsibilities of parents in the district preschool program. The responsibilities shall be set forth in writing and provided to the parents of eligible children. Approved written or verbal communication between the parent and program personnel may be considered as fulfillment of responsibilities for program visitation. No child shall be accepted in the district preschool program unless one or both of the parents agree to assume the responsibilities, and failure of the parent or parents to fulfill the responsibilities shall result in the child being dismissed from the district preschool program.

**Source:** **L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 2006:** Entire section amended, p. 694, § 34, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1961, § 53, effective August 5.

**22-28-111. Coordination of district preschool program with extended day services.** (1) (a) Any school district that establishes a district preschool program may coordinate the program with extended day services if the district advisory council and the school



district find that there exists a need for the services. The services may be coordinated by the school district through one or more privately funded child care centers or publicly funded early childhood education agencies or through the school district itself.

(b) Any extended day services provided pursuant to paragraph (a) of this subsection (1), regardless of whether provided by a school district, head start agency, or public or private child care agencies, shall meet the appropriate standards for licensing established by the department of human services pursuant to section 26-6-106, C.R.S.

(2) The extended day services program shall be funded from fees charged to parents or from public or private funds, or from both. If the school district or the head start agency or child care agency providing the extended day services program meets eligibility requirements, it may seek and expend, on its own behalf or on behalf of the child's parents, public and private funds available for extended day services, including, but not limited to, social services funds, job training funds, and funds from private companies and charitable organizations.

**Source:** L. 88: Entire article added, p. 831, § 40, effective May 24. L. 92: (1) amended, p. 491, § 9, effective May 26. L. 94: (1)(b) amended, p. 2691, § 220, effective July 1. L. 96: (1)(a) amended, p. 1799, § 21, effective July 1; (1)(b) amended, p. 266, § 19, effective July 1. L. 2006: (1)(a) amended, p. 694, § 35, effective April 28. L. 2009: (1)(a) amended, (SB 09-292), ch. 369, p. 1961, § 54, effective August 5.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(b), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-28-111.5. Coordination of district preschool program with family support services - establishment of parenting program.** In coordinating a district preschool program with family support services and in establishing a parenting program as required by section 22-28-107 as a part of the proposal for the district preschool program, the school district is encouraged to apply for federal child care and development block grant funds and to seek support, advice, and technical and financial assistance from members of the community, from businesses, and from community and state agencies. In addition to other moneys available to the school district to fund the requirements of this section, the school district is authorized to seek and accept gifts, donations, or grants of any kind from any private source or from any governmental agency. All such gifts, donations, and grants shall be transmitted to the treasurer of the school district, who shall credit the same to a special account in the school district general fund to be used solely to fund the requirements of this section.

**Source:** L. 92: Entire section added, p. 492, § 10, effective May 26. L. 2006: Entire section amended, p. 695, § 36, effective April 28. L. 2009: Entire section amended, (SB 09-292), ch. 369, p. 1961, § 55, effective August 5.

**22-28-112. Reports to legislative committees.** By January 15, 2007, and by January 15 of each year thereafter, the department shall report to the education committees of the senate and house of representatives, or any successor committees, on the effectiveness of the Colorado preschool program. The department is authorized to request from any participating school district such information and data as may be necessary to make such reports.

**Source:** L. 88: Entire article added, p. 831, § 40, effective May 24. L. 92: Entire section amended, p. 494, § 15, effective May 26. L. 96: Entire section amended, p. 1241, § 98, effective August 7. L. 2006: Entire section amended, p. 695, § 37, effective April 28. L. 2009: Entire section amended, (SB 09-292), ch. 369, p. 1962, § 56, effective August 5.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

22-28-113. Repeal of article. (Repealed)

**Source:** **L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 92:** Entire section repealed, p. 487, § 1, effective May 26.

22-28-114. Change of program name - direction to revisor - authorization.

- (1) The revisor of statutes is authorized to change all references to the Colorado preschool and kindergarten program and to the state preschool and kindergarten program that appear in the Colorado Revised Statutes to the Colorado preschool program.
- (2) The revisor of statutes is authorized to change all references to the district or district’s preschool and kindergarten program that appear in the Colorado Revised Statutes to the district or district’s preschool program.

**Source:** **L. 2008:** Entire section added, p. 1227, § 42, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

ARTICLE 29

Character Education

22-29-101.	Legislative declaration.		department.
22-29-102.	Definitions.	22-29-105.	Electronic transmission and storage of data.
22-29-103.	Character education - development - resource.	22-29-106.	Character education fund - creation - contributions.
22-29-104.	Reports - school districts -		

**22-29-101. Legislative declaration.** The general assembly finds and declares that, while parents are the primary and most important moral educators of their children, such efforts should be reinforced in the school and community environments. The general assembly further finds that research indicating that core character qualities such as family support, community involvement, positive peer influence, motivation to achieve, respect for person and property, common courtesy, conflict resolution, integrity, honesty, fairness, a sense of civil and personal responsibility, purpose, and self-respect help give youth the basic interpersonal skills and attributes that are critical building blocks for successful relationships. The general assembly recognizes each school district’s authority to exercise control over the specific instruction of students, yet also recognizes and hereby asserts a significant statewide interest in providing direction to school districts with regard to the character education of Colorado’s youth. Therefore, the general assembly hereby encourages school districts to develop and strengthen character education instruction to students. By enacting this article, the general assembly acknowledges the importance of character development and encourages school districts, parents, and communities to work together to prepare youth for positive relationships in today’s society.

**Source:** **L. 2001:** Entire article added, p. 1006, § 1, effective June 5.

**22-29-102. Definitions.** As used in this article, unless the context otherwise requires:

- (1) “Board of cooperative services” shall have the same meaning as provided in section 22-5-103 (2).
- (2) “Department” means the state department of education created pursuant to section 24-1-115, C.R.S.
- (3) “School district” means any school district organized and existing pursuant to law, but does not include a junior college district.
- (4) “State board” means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** **L. 2001:** Entire article added, p. 1007, § 1, effective June 5.



**22-29-103. Character education - development - resource.** (1) Each school district, either individually or through a board of cooperative services, is strongly encouraged to establish a character education program designed to help students cultivate honesty, respect, responsibility, courtesy, respect for and compliance with the law, integrity, respect for parents, home, and community, and the dignity and necessity of a strong work ethic, conflict resolution, and other skills, habits, and qualities of character that will promote an upright, moral, and desirable citizenry and better prepare students to become positive contributors to society. The program may include information concerning this country's founding documents and concerning religion in American history. Such character education program should be designed to stress the importance that each teacher model and promote the guidelines of behavior established in the character education program for youth to follow at all times, in every class.

(2) The general assembly encourages each school district to work with parents and legal guardians of students enrolled in the school district and the community in which the school district operates in the development of any character education program established pursuant to subsection (1) of this section.

(3) The department may collect information related to character education and shall serve as a character education resource for all interested parents, school districts, and boards of cooperative services.

**Source: L. 2001:** Entire article added, p. 1007, § 1, effective June 5.

**22-29-104. Reports - school districts - department.** (1) Each school district may submit a report to the department concerning any character education program developed. Such report shall include such information and data as may be specified by rule of the state board and shall be filed on or before a date specified by rule of the state board.

(2) On or before each January 15, the department shall submit to the education committees of the senate and the house of representatives, or any successor committees, an executive summary of any reports submitted by school districts pursuant to subsection (1) of this section.

**Source: L. 2001:** Entire article added, p. 1007, § 1, effective June 5. **L. 2006:** (2) amended, p. 605, § 18, effective August 7.

**22-29-105. Electronic transmission and storage of data.** To the extent practicable, the department may store electronically all data collected pursuant to this article. Further, each school district may submit information to the department electronically, consistent with rules promulgated by the state board pursuant to section 22-29-104 (1).

**Source: L. 2001:** Entire article added, p. 1008, § 1, effective June 5.

**22-29-106. Character education fund - creation - contributions.** The department is hereby authorized to receive grants, gifts, donations, and contributions from any source, public or private, for the purpose of implementing this article. Any moneys received shall be transmitted to the state treasurer who shall credit the same to the character education fund, which fund is hereby created. Moneys in the fund shall be continuously appropriated to the department for the implementation of this article consistent with the standards established in section 22-29-103 (1). At the end of any fiscal year, all unexpended and unencumbered moneys in the character education fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. Any interest derived from the deposit and investment of such moneys shall remain in the fund and may not be credited or transferred to the general fund or any other fund.

**Source: L. 2001:** Entire article added, p. 1008, § 1, effective June 5.

SCHOOL DISTRICTS

ARTICLE 30

School District Organization  
Act of 1992

**Editor’s note:** This article was numbered as article 25 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

**Cross references:** For jurisdiction of school districts in federally owned or controlled land or Indian reservations, see § 3-2-101.

PART 1		22-30-119.	Certificate of return - map.
NEW OR ANNEXING SCHOOL DISTRICT ORGANIZATION		22-30-120.	New school district - powers.
		22-30-120.5.	Effective date for purposes of school finance.
		22-30-121.	Rejection of final approved plan.
22-30-101.	Short title.	22-30-121.5.	New school district - election concerning financial matters.
22-30-102.	Legislative declaration.	22-30-122.	Election of school directors in new school districts.
22-30-103.	Definitions.	22-30-123.	Status of old school district - assets.
22-30-104.	Conduct of elections.	22-30-124.	Existing bonded indebtedness.
22-30-105.	Activation of the school district organization planning process.	22-30-125.	Election on assuming the existing bonded indebtedness.
22-30-106.	School organization planning committee.	22-30-125.5.	Authorization of new bonded indebtedness or assumption of existing bonded indebtedness.
22-30-107.	Duties of the committee.	22-30-126.	Limit of bonded indebtedness - new school district.
22-30-107.5.	Duties of affected school districts.	22-30-127.	New school district - bonded indebtedness.
22-30-108.	Vacancies.	22-30-128.	Detachment and annexation of territory - exemptions from school district organization planning process.
22-30-109.	Meetings - notice.		
22-30-110.	Names certified to commissioner.	PART 2	
22-30-111.	Compensation - expenses.	JOINT TAXATION DISTRICTS	
22-30-112.	Department consultants.		
22-30-113.	Duties of the attorney general.	22-30-201.	Joint taxation districts - authorized.
22-30-114.	Requirements for plan of organization.	22-30-202.	Joint taxation board.
22-30-115.	Hearing on a plan of organization.		
22-30-116.	Approval of the plan and submission to the commissioner.		
22-30-117.	Special school district organization election scheduled.		
22-30-118.	Meeting to explain final approved plan.		

PART 1

NEW OR ANNEXING SCHOOL DISTRICT ORGANIZATION

**22-30-101. Short title.** This article shall be known and may be cited as the “School District Organization Act of 1992”.



**Editor's note:** This section is similar to former § 22-30-101 as it existed prior to 1992.

### ANNOTATION

**Law reviews.** For article, "One Year Review of Contracts", see 36 Dicta 19 (1959).

**Annotator's note.** Since § 22-30-101 is similar to repealed § 123-25-1, C.R.S. 1963, and § 123-8-1, CRS 53, relevant cases construing those provisions have been included in the annotations to this section.

**School district reorganization act of 1949 held constitutional.** *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**School district organization act of 1957 held constitutional.** *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**This legislation establishes procedures for the organization or reorganization of public school districts in the state.** *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

**A school district has the capacity and standing to seek and obtain a judicial determination as to the legality of this legislation where its existence may be terminated and its property taken.** *Sch. Dist. No. 23 v. Sch. Planning Comm.*, 146 Colo. 241, 361 P.2d 360 (1961).

**Reorganization is not a mandatory matter;** rather this statute provides an orderly manner for reorganizing old school districts into new school districts where deemed desirable. *Sch. Dist. No. 23 v. Sch. Planning Comm.*, 146 Colo. 241, 361 P.2d 360 (1961).

**Compliance with statutory requirements for reorganization is necessary.** The manner in which the reorganization of school districts shall be accomplished is provided in the act and a lawful reorganization can only be effected if there be compliance with the requirements thereof. *Sch. Dist. No. 23 v. Sch. Planning Comm.*, 146 Colo. 241, 361 P.2d 360 (1961).

**The district court has jurisdiction to issue an injunction.** Where a complaint alleges that the requirements of this statute have not been complied with, the district court of the county in which the existing school lies has jurisdiction as a court of equity to enjoin the holding of an election to establish a new school district. *Sch. Dist. No. 23 v. Sch. Planning Comm.*, 146 Colo. 241, 361 P.2d 360 (1961).

**Applied in** *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982).

**22-30-102. Legislative declaration.** (1) The general assembly hereby declares that this article is enacted for the general improvement of the public schools in the state of Colorado; for the equalization of the benefits of education throughout the state; for the organization of public school districts in the state and the alteration of the boundaries of established school districts, in order to provide for the maintenance of a thorough and uniform system of free public schools throughout the state; and for a more responsible expenditure of public funds for the support of the public school system of the state. In order to accomplish these ends, this article shall be liberally construed.

(2) The general assembly further finds and declares that the provisions of this article shall apply in all of the following situations:

(a) The creation of one or more additional school districts within the existing boundaries of a school district;

(b) The consolidation of two or more school districts or parts of school districts into a new single school district;

(c) The dissolution and annexation of a school district when such school district fails to operate a school within the school district or when the state board declares the school district is no longer accredited;

(d) The detachment and annexation to revise, alter, or modify the boundaries of school districts for the purpose of more effective or economical operation or in order to provide better educational opportunities for the school age children resident in certain territory.

(2.5) The general assembly further finds and declares that the provisions of this article shall not apply to any detachment and annexation wherein county boundaries are modified.

(3) The general assembly further finds and declares that, except as provided in section 22-30-128, no reorganization of a school district shall occur without the appointment of a school organization planning committee to study the school organization and develop a plan for reorganization of the school district.

**Source:** **L. 92:** Entire article R&RE, p. 496, § 1, effective June 1. **L. 94:** (2.5) added, p. 808, § 13, effective April 27. **L. 95:** (3) amended, p. 605, § 2, effective May 22.

**Editor's note:** This section is similar to former § 22-30-102 as it existed prior to 1992.

### ANNOTATION

**Annotator's note.** Since § 22-30-102 is similar to repealed § 123-25-2, C.R.S. 1963, and § 123-8-2, CRS 53, relevant cases construing those provisions have been included in the annotations to this section.

**The formation, dissolution, and change in boundaries of school districts are legislative matters.** *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**So are the number, nature, and powers of school districts.** The general assembly has plenary powers to determine the number, nature, and powers of school districts and their territory. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**The general assembly may abolish or dissolve school districts**, subject to constitutional limitations. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**It is not necessary that the school districts affected give their consent** to their abolition or dissolution by the general assembly, except as otherwise provided by statutes. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**The general assembly may modify or withdraw all powers granted to** the school districts as it pleases. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**22-30-103. Definitions.** As used in this article, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of education.
- (2) "Committee" means the school organization planning committee authorized to study school district organization and develop a plan for reorganization.
- (3) "Consolidation" means reorganization of two or more school districts into fewer school districts.
- (4) "Detachment and annexation" means the alteration of boundaries of two or more school districts.
- (5) "Director districts" means subdivisions of a school district which are contiguous, compact, and as nearly equal in population as possible.
- (6) "Dissolution and annexation" means the discontinuance of a school district and annexation of its territory to another existing school district.
- (7) "Eligible elector" means a person who has complied with the registration provisions of articles 1 to 13 of title 1, C.R.S., and who resides within the boundaries of the proposed or existing school district.
- (8) "New school district" means a school district which has become a new body corporate pursuant to the provisions of this article.
- (9) "Parameters of the study" means the type of organization and the boundaries of the territory to be included in the study and the timeliness with which the committee shall complete the study.
- (10) "Petition committee" means not less than three nor more than five persons who are not members of the same family who shall represent the signors of a petition for the study of school organization in a school district.
- (11) "Plan of organization" means the plan of school organization developed pursuant to this article.
- (12) "Reorganization" means any change in school district organization pursuant to the provisions of this article.
- (13) "School district" means a school district organized and existing pursuant to law; except that "school district" does not include a junior college district.
- (14) "State board" means the state board of education.

**Source:** L. 92: Entire article R&RE, p. 497, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-103 as it existed prior to 1992.



## ANNOTATION

**Use of term “any school district”.** Throughout the entire article whenever the general assembly wishes to apply provisions of the act uniformly to “old” and “new” districts alike, it

uses the term “any school district” wherever such term fits within the context of the provision. *Wheeler v. Rudolph*, 162 Colo. 410, 426 P.2d 762 (1967).

**22-30-104. Conduct of elections.** (1) All elections authorized in this article shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S. For each election, the governing body authorized to call the election shall name a designated election official who shall be responsible for calling and conducting the authorized election.

(2) A governing body may contract with a county clerk and recorder to be the designated election official or for the administration of any of the duties of the designated election official relating to the conduct of a school district election under this article.

(3) Election offenses in any election held pursuant to this article shall be the same as those prescribed in article 13 of title 1, C.R.S.

(4) The procedures for placing an issue or question on the ballot by a petition of school district electors that is pursuant to statute or the state constitution or that a school district board of education may refer to a vote of the electors pursuant to statute or the state constitution shall, to the extent no such procedures are prescribed by statute or the state constitution, follow as nearly as practicable the procedures for municipal initiatives and referred measures under part 1 of article 11 of title 31, C.R.S. The designated election official shall resolve any questions about the applicability of the procedures in part 1 of article 11 of title 31, C.R.S., after consultation with the county clerk of the county in which the school district administrative office is located.

**Source:** **L. 92:** Entire article R&RE, p. 498, § 1, effective June 1. **L. 96:** (4) added, p. 1766, § 56, effective July 1.

**22-30-105. Activation of the school district organization planning process.** (1) The appointment of a school organization planning committee charged to study school district organization shall occur when the commissioner is notified that any of the following conditions exist:

(a) One or more school district boards of education request the appointment of a school organization planning committee. Each school district which would be affected by the actions of such planning committee must submit a separate resolution.

(b) A petition committee, as defined in section 22-30-103 (10), presents a petition to the commissioner and to the county clerk and recorder of each county in which the headquarters of a school district that will be affected by the actions of a planning committee are located requesting the appointment of a school organization planning committee. Such petition shall contain a statement indicating the school districts to be involved. If only one school district is involved, the petition shall be signed by fifteen percent of that school district's eligible electors. If multiple school districts are involved, the petition shall be signed by fifteen percent of the eligible electors in each involved school district; except that, if the petition requests only consideration of detachment and annexation, the petition shall be signed by twenty-five percent of the eligible electors residing in the area to be detached and annexed. If multiple school districts are involved, the petition does not request consideration of a detachment and annexation, and the pupil enrollment of a school district for purposes of the “Public School Finance Act of 1994” is greater than thirty thousand pupils, the petition shall be signed by five percent of the eligible electors in that school district. Such petitions shall be deemed sufficient by the county clerk and recorder in the county of each involved school district. Only one such petition may be presented to the commissioner and the county clerk and recorder in the county of each involved school district in any three consecutive calendar years.

(c) The state board declares a school district is no longer accredited pursuant to the provisions of section 22-11-209. Such declaration shall indicate the school districts to be involved in the organization study.

**Source:** L. 92: Entire article R&RE, p. 498, § 1, effective June 1. L. 96: (1)(b) amended, p. 51, § 1, effective July 1. L. 98: (1)(c) amended, p. 989, § 7, effective July 1. L. 2009: (1)(c) amended, (SB 09-163), ch. 293, p. 1533, § 22, effective May 21.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

**Cross references:** For the "Public School Finance Act of 1994", see article 54 of this title.

**22-30-106. School organization planning committee.** (1) Upon determination that one or more of the conditions described in section 22-30-105 exist, the commissioner shall notify the boards of education and committees responsible for appointing members of a school organization planning committee as stated in this section and call for the appointment of such a committee. Such a committee shall be appointed and hold its first meeting within thirty days of notification by the commissioner.

(2) The committee shall consist of the following appointed members:

(a) (I) If multiple school districts are involved in the study, two members appointed by the board of education in each school district affected by the study and one member appointed by the school district accountability committee of each school district affected by the study. Such member shall be a parent of a child attending a public school in the affected area; except that, if there are no public schools in the affected area, the member shall reside in the affected area and be a parent of a child attending a public school in one of the affected school districts. If no such parent resides in the affected area, the member shall be a person owning land located in the affected area.

(II) If a single school district is involved in the study, four members appointed by the school district board of education and three members appointed by the school district accountability committee. The members appointed by the school district accountability committee shall be parents of children attending public school in the affected area and members of school accountability committees; except that, if there are no public schools in the affected area, three of the members shall reside in the affected area and shall be parents of children attending public schools in the affected school district. If fewer than three such parents reside in the affected area, the remaining members shall be persons owning land located in the affected area.

(b) If the school organization planning process was activated by a petition, two additional members appointed by the petition committee.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, where the reorganization of a school district arises from the detachment and annexation of a portion of a school district, which portion has five or fewer eligible electors, the school district boards of education of the affected school districts shall serve as the committee.

**Source:** L. 92: Entire article R&RE, p. 499, § 1, effective June 1. L. 96: (2)(a) amended, p. 52, § 2, effective July 1. L. 2002: (2)(a) amended, p. 1019, § 28, effective June 1. L. 2009: (2)(a)(II) amended, (SB 09-163), ch. 293, p. 1533, § 23, effective May 21.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

#### ANNOTATION

**Annotator's note.** Since § 22-30-106 is similar to § 22-30-104 as it existed prior to the 1992 repeal and reenactment of this article, relevant cases construing that provision have been included in this section.

**Section held constitutional.** This section does not violate the constitution of the state of Colorado as an illegal delegation of legislative power to administrative officers or to individuals. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d

188 (1952); *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**The general assembly has the power to change school districts' boundaries.** Whatever the nature of the change, the boundaries of school districts may be changed at the will of the general assembly. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**This power may be delegated to administrative bodies.** Because few, if any, restrictions



are placed upon the legislative power in school affairs by the constitution, the general assembly has almost unlimited power to abolish, divide or alter school districts, and it has been generally recognized that this broad discretionary power to change the boundaries of school districts may be delegated by the general assembly to administrative bodies to be exercised under certain conditions and in agreement with certain stan-

dards. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**Where a school planning committee conducts an election after public hearings and approval by the state commissioner of education**, it carries out its legislatively assigned duties well within the framework of the statute. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**22-30-107. Duties of the committee.** (1) The committee shall have the following duties:

- (a) To appoint a chair, vice-chair, and secretary;
- (b) To establish parameters of the study;
- (c) To make a careful study of the public school systems within the parameters of the study established by the committee;
- (d) To develop a plan of organization which meets the requirements of section 22-30-114;
- (e) To cooperate with the school district boards of education of the affected school districts, the state board, and the commissioner in arriving at a plan of organization;
- (f) (I) When the proposed plan of organization results in the creation of a new school district, to file with the commissioner and the county clerk and recorder in each county affected by the proposed plan of organization a map and legal description of the new school district, the name of the county in which the new school district shall be headquartered, and the name and number by which the new school district shall be designated;
- (II) When the proposed plan of organization results in the detachment and annexation of territory between existing school districts, to file with the commissioner and the county clerk and recorder in each county affected by the proposed plan of organization a map and legal description of the school districts following the detachment and annexation;
- (g) (I) To call for and make arrangements for elections to vote upon the final approved plan of organization as provided in section 22-30-117;
- (II) If the majority votes in favor of the final approved plan of organization and the final approved plan of organization results in the creation of a new school district, to call for an election to elect a board of education for the new school district as provided in section 22-30-122 and, if necessary, an election to address any financial matters, as provided in section 22-30-121.5; except that the final approved plan of organization and financial matters may be addressed in the same election;
- (h) To assist in the dissemination of information as to the purpose and benefits of the proposed plan of organization and the final approved plan of organization; and
- (i) To make all certifications and perform all other acts specifically required of the committee by this article.

**Source:** L. 92: Entire article R&RE, p. 500, § 1, effective June 1. L. 96: (1)(f) and (1)(g) amended, p. 52, § 3, effective July 1.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

**22-30-107.5. Duties of affected school districts.** The school district board of education of each school district affected by appointment of a committee shall cooperate with the committee by providing any information requested by the committee to assist in formulating the plan of organization.

**Source:** L. 98: Entire section added, p. 432, § 1, effective August 5.

**22-30-108. Vacancies.** After a committee is formed, in case of a vacancy on the committee by death, resignation, failure to accept membership thereon, or discontinuation of the enrollment of a parent member's child in a school in the affected school district, the

vacancy shall be filled in the same manner as the original appointment. If any member fails to attend two consecutive meetings, after due notice and without being excused by the committee chair, the office of such member shall be declared vacant.

**Source:** L. 92: Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-106 as it existed prior to 1992.

#### ANNOTATION

**Law reviews.** For article, "One Year Review (decided under repealed § 123-25-6, C.R.S. of Contracts", see 36 Dicta 19 (1959). 1963).

**Applied** in Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968)

**22-30-109. Meetings - notice.** All meetings of the committee shall be open to the public pursuant to the provisions of section 24-6-402, C.R.S., and shall be held only after full and timely public notice. The chair may call special meetings upon notice mailed by the secretary to each member at least five days before such meeting. A meeting of the committee shall be called by the chair on written request of three members of the committee upon notice mailed by the secretary to each member at least five days before such meeting.

**Source:** L. 92: Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-107 as it existed prior to 1992.

**22-30-110. Names certified to commissioner.** When any committee has been appointed, as provided in section 22-30-106 (2), the secretary thereof shall certify to the commissioner the names and post office addresses of each member of such committee, indicating the persons elected as chair and vice-chair. Any change in the personnel or officers of such committee shall be likewise certified to the commissioner.

**Source:** L. 92: Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-108 as it existed prior to 1992.

**22-30-111. Compensation - expenses.** Members of the committee shall not receive compensation for service on such committee from state moneys. The affected school districts shall compensate committee members for actual expenses incurred in the performance of their duties under this article. For purposes of this section, "actual expenses" means travel expenses and expenses incurred in purchasing necessary supplies.

**Source:** L. 92: Entire article R&RE, p. 501, § 1, effective June 1. L. 98: Entire section amended, p. 432, § 2, effective August 5.

**Editor's note:** This section is similar to former § 22-30-132 as it existed prior to 1992.

**Cross references:** For reimbursement of transportation costs, see article 51 of this title.

**22-30-112. Department consultants.** The state board is authorized to employ such consultants, assistants, and other personnel, within the limits of appropriations to the department of education for salaries and travel expenses of personnel, as may be necessary to render all reasonable assistance to the various committees in the development and submission of plans of organization. All personnel employed shall work under the direction of the commissioner or a designated assistant commissioner.



**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-109 as it existed prior to 1992.

**22-30-113. Duties of the attorney general.** The attorney general shall be the legal counsel and advisor of the state board, the commissioner, and, when requested by the commissioner, any of the committees organized pursuant to the provisions of this article for purposes related to the proper administration of this article.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-134 as it existed prior to 1992.

**22-30-114. Requirements for plan of organization.** (1) The plan of organization shall include, but shall not be limited to, consideration of the following:

(a) The educational needs of pupils in the affected school districts, including the convenience and welfare of pupils;

(b) The provision of diverse educational opportunities for students;

(c) Equalization of the educational opportunities provided to students in the affected school districts;

(d) Implementation of the actions required by the state board pursuant to section 22-11-209 (3);

(d.5) The reasons for which the school district was unable to improve its performance sufficiently to avoid removal of accreditation pursuant to section 22-11-209;

(e) Facility utilization;

(f) Establishment of boundaries for all existing or new school districts in the plan of organization by legal description;

(g) Equitable adjustment and distribution of all or any part of the properties and cash assets of the school districts whose boundaries may be affected by the creation or dissolution of a school district or by the detachment and annexation of territory. The plan of organization may also provide for equitable adjustment of the liabilities of the school districts, other than bonded indebtedness, at the option of the committee. In considering an equitable adjustment of the assets of such school districts, the committee shall consider the outstanding general liabilities and obligations of the school districts that may be so affected, the number of children attending public school in each such school district, the valuation for assessment of taxable property in each such school district, the amount of outstanding bonded indebtedness of each such school district, the purpose for which such bonded indebtedness was incurred, and the value, location, and disposition of all real properties located in the school districts that may be affected by the creation or dissolution of a school district or the detachment and annexation of territory. In considering an equitable adjustment of the assets of such school districts, the plan of organization may provide for authorization of new bonded indebtedness or assumption of outstanding bonded indebtedness by any school district in such proportions and for such purposes as the committee deems appropriate to equitably adjust and distribute such assets.

(h) Provision of a specific plan of representation for the members of the board of education of any proposed new school district. Each proposed new school district may be subdivided into five or seven director school districts or may have all directors elected at large or may have a combination thereof. The term of office of school directors in each proposed new school district shall be for four years.

(i) Dates for one or more special school district elections to address the following:

(I) Adoption of the final approved plan of organization;

(II) Election of a board of directors if the plan of organization results in the creation of a new school district; except that such plan shall not interfere with the regular biennial election schedule; and

(III) Financial issues, if necessary, including but not limited to an increase in the mill levy, which election shall be held in accordance with the requirements of section 20 of article X of the state constitution;

(j) If the plan of organization results in the creation of a new school district, the estimated maximum increase in the mill levy to be imposed on property included within the new district considering the factors enumerated in section 22-54-106 (2) (c). If the plan of organization results in the detachment and annexation of territory between existing school districts, the plan of organization shall include the mill levy of the annexing district that will be imposed on the affected territory.

(k) If the plan of organization results in the creation of a new school district, a source of operating funds to be used by the new school district prior to receiving the state share of the total district program, pursuant to the "Public School Finance Act of 1994", article 54 of this title, on July 1 of the new school district's first budget year.

(1.5) The plan of organization shall provide that all school districts affected by the plan of organization shall provide a full twelve-grade education within the boundaries of each affected school district.

(2) If the plan of organization results in the dissolution of a school district which has outstanding bonded indebtedness obligations or liabilities, the plan of organization shall designate a new school district, which includes at least a portion of the dissolved school district, as a successor for the purpose of administering payment of the bonded indebtedness obligations of the dissolved school district, and the board of education of the new school district so designated shall have all the powers, rights, duties, and responsibilities of the board of education of the dissolved school district for administering payment of the outstanding bonded indebtedness obligations and liabilities of the dissolved school district. All revenues which accrue from the tax levies to satisfy said obligations and liabilities, and all interest which may accrue thereto as a result of investments authorized by law, shall be held in trust by the board of education of the new school district so designated for the purpose only of satisfying said bonded indebtedness obligations and liabilities of the dissolved school district.

(3) If the reorganization results in the creation of one or more additional school districts within the boundaries of an existing school district, the plan of organization may include:

(a) Authorization for the existing school district and the new school district or districts to enter into a revenue sharing agreement. The plan of organization shall specify the period of time during which revenue sharing may occur.

(b) Provisions for creation of a joint taxation district as provided in part 2 of this article.

(4) If the plan of organization results in creation of one or more new school districts or alterations of the boundaries of existing school districts, the plan shall ensure that the school district boundaries are not set in such a way as to create any portion of a school district that is not contiguous to the remainder of the school district.

**Source:** L. 92: Entire article R&RE, p. 502, § 1, effective June 1. L. 94: (1)(g) amended, p. 1277, § 1, effective May 22. L. 96: (1) amended and (3) added, p. 53, § 4, effective July 1. L. 97: (1.5) added, p. 77, § 1, effective March 24. L. 98: (1)(d) amended and (1)(d.5) added, p. 989, § 8, effective July 1; (4) added, p. 432, § 3, effective August 5. L. 2009: (1)(d) and (1)(d.5) amended, (SB 09-163), ch. 293, p. 1534, § 24, effective May 21.

**Editor's note:** This section is similar to former § 22-30-113 as it existed prior to 1992.



## ANNOTATION

- I. General Consideration.
- II. Distribution of Assets.
- III. Director Districts.

**I. GENERAL CONSIDERATION.**

**Annotator's note.** Since § 22-30-114 is similar to § 22-30-113 as it existed prior to the 1992 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

**II. DISTRIBUTION OF ASSETS.**

The term "cash assets", as used in this section, does not mean the same thing as "cash on hand". *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

An item, to be considered as a cash asset for the purpose of reorganization of public school districts in the state, should be something which has a definite and certain present value, equivalent to cash, and the only items which have heretofore been allowed as cash assets, other than cash or marketable securities, are taxes assessed and uncollected, and interest thereon, and these last items were allowed on the theory that the county, having a lien on the property assessed, is assured of their collection. *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

In law and in the broadest sense, "property" means "thing owned", and is, therefore, applicable to whatever is the subject of legal ownership. It is divisible into different species of property, including physical things, such as lands, goods, money; and intangible things, such as franchises, patent rights, copyrights, trademarks, trade-names, business good will, rights of action, etc. In short, it embraces anything and everything which may belong to a man and in the ownership of which he has a right to be protected by law. *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

"Properties and cash assets" include uncollected tax revenue. The terms "cash assets" and "property", as used in this section, are sufficiently broad to authorize redistribution of all assets of reorganized districts, including uncollected tax revenue. *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

It is inconceivable that the general assembly intended otherwise. The general assembly has created a comprehensive plan for the reorganization of public school districts in the state, and it is inconceivable that it would authorize

the creation of such a plan, and, at the same time, fail to provide that the assets of the old districts could be distributed to the new ones. *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

The provisions in a reorganization plan for the distribution of the "properties and cash assets", having been phrased in the terminology of this section, provide a comprehensive scheme for the distribution of all assets of the district, including the uncollected tax revenues. *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

**III. DIRECTOR DISTRICTS.**

The legislative intent is that each district have one of its own residents as a director. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

There should be substantial equality of population between districts. It would seem to follow that the manifest legislative intent that each district elect one of its own residents as director requires substantial equality of population between the director districts so that no one director district has a disproportionate representation on the school board. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

Where there is an unjustified disparity between the population of the districts and thirty-one percent of the population can control a majority of the board, the legislative intent is obviously frustrated and that part of the plan is illegal and void. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

In § 22-11-110 the general assembly expressly contemplated changes in director district boundaries to correct disparities of population. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

Disparity does not nullify the entire reorganization scheme. The creation of the director districts' boundaries within the district constitutes but a minor element within a broad scheme to improve education within the reorganized school district and nullification of the invalid apportionment does not eviscerate the entire scheme, and the reorganized school district can continue to function subject only to a correction of the imbalance noted. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

A candidate residing in and nominated from a subdistrict, but elected by votes of electors of the entire district, is properly elected. *Berni v. Cook*, 153 Colo. 444, 386 P.2d 588 (1963).

**22-30-115. Hearing on a plan of organization.** (1) When a plan of organization has been tentatively agreed upon by the committee, the proposed plan of organization with the attached map and legal description of the proposed boundaries of each school district affected by the proposed plan of organization shall be filed with the commissioner and each affected board of education.

(2) (a) Within fifteen days after the filing of the proposed plan of organization, the committee shall give notice of the filing of such plan of organization, map, and legal description by publication of said fact in a newspaper of general circulation in each area affected by the proposed plan of organization and by causing to be posted a copy of said notice upon each public school building in which school was held during any part of the preceding twelve months and that is located within the boundaries of any area affected by the plan of organization. If there is no newspaper of general circulation in the communities affected by the proposed plan of organization, posting of public notice as provided in this subsection (2) shall be sufficient. Such public notice shall give the time and place of any meeting to be held within thirty days by the committee for hearings on such proposed plan of organization. The committee shall hold a sufficient number of hearings to enable the residents of the affected area to receive adequate information and details of the plan of organization being considered. Any interested person may appear at such hearings and make comments on the proposed plan of organization.

(b) Notwithstanding the provisions concerning the posting of notice in public schools in paragraph (a) of this subsection (2), if there are no public schools within the boundaries of an area proposed to be detached and either annexed or organized into a new school district, public notice of the meeting shall be posted in at least three public buildings located in such area. If there are fewer than three public buildings located in such area, notice shall be mailed to each household in such area in which one or more eligible electors reside.

**Source:** **L. 92:** Entire article R&RE, p. 503, § 1, effective June 1. **L. 96:** Entire section amended, p. 55, § 5, effective July 1.

**Editor's note:** This section is similar to former § 22-30-115 as it existed prior to 1992.

#### ANNOTATION

**Annotator's note.** Since § 22-30-115 is similar to repealed § 123-25-15, C.R.S. 1963, a relevant case construing that provision has been included in the annotations to this section.

**Planning committee may modify its plan subsequent to hearings.** The act does not prohibit a planning committee's modification of its plan subsequent to the public hearings. Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968).

**The purpose of the hearing** is so that the committee can be informed of changes in the

reorganization plan deemed necessary or desirable by persons directly affected. Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968).

**Disclosure to the electorate of a committee's changes is assured** by means other than hearings, namely the "meetings to explain" called for by § 22-30-119. Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968).

**22-30-116. Approval of the plan and submission to the commissioner.** After the public hearings required under section 22-30-115, the committee may make such changes in the proposed plan of organization as it deems appropriate. The committee shall formally approve the proposed plan of organization within sixty days after the last such public hearing. Within ten days after such approval, the committee shall forward to the commissioner a copy of the approved proposed plan of organization, with a map showing the proposed boundaries of each school district affected by the proposed plan of organization. The commissioner shall either approve the proposed plan of organization as submitted by the committee or return the proposed plan of organization to the committee with suggested modifications or amendments. The commissioner and the committee shall work together to develop a plan of organization that is mutually acceptable to both parties.



**Source:** **L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 55, § 6, effective July 1.

**Editor's note:** This section is similar to former § 22-30-116 as it existed prior to 1992.

#### ANNOTATION

**For previously required notice and hearings,** Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968) (decided under repealed § 123-25-16, C.R.S. 1963).

**22-30-117. Special school district organization election scheduled.** (1) The plan of organization shall be approved by the commissioner and the committee within one hundred twenty days following the last public hearing held pursuant to section 22-30-115 and shall be designated as the final approved plan of organization. At that time, the committee shall call for and establish the date of a special school district organization election wherein the eligible electors in each school district affected by the final approved plan of organization shall vote upon the adoption or rejection of the final approved plan of organization. The committee shall name a designated election official who shall be responsible for conducting the election. Such election shall be held on the date specified in the final approved plan of organization. The expense of the election shall be apportioned among the affected school districts based on population according to the most recent federal decennial census.

(2) If the estimated maximum increase in the mill levy for a new district or the mill levy to be imposed on annexed territory, as set forth in the plan of organization, represents an increase in the levy imposed on any property affected by the plan of organization, the question of the increase in the mill levy to be imposed upon the affected territory shall be submitted to the eligible electors residing in the affected territory prior to or at the special school district organization election as the final approved plan of organization. Approval of the increased levy by a majority of the eligible electors voting on the question who reside in the affected territory shall be a prerequisite to the implementation of the plan of organization.

**Source:** **L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 56, § 7, effective July 1. **L. 98:** (1) amended, p. 433, § 4, effective August 5.

#### ANNOTATION

**Where the committee's reorganization plan devoted 12 paragraphs to the assessment of factors listed in § 22-30-111,** in which such considerations as educational needs, tax equalization, indebtedness, and transportation of school children are set forth at length, the trial court properly found substantial compliance

with the requirements of this section. Sch. Dist. No. 1 v. Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968) (decided under repealed § 123-25-12, C.R.S. 1963).

**Applied** in Hawkins v. Cline, 161 Colo. 141, 420 P.2d 400 (1966) (decided under repealed § 123-25-18, CRS 53, as amended).

**22-30-118. Meeting to explain final approved plan.** Prior to the special school district organization election, the committee shall meet with the eligible electors of each area affected by the final approved plan of organization in a convenient place within each area to explain the final approved plan of organization. The committee shall arrange for such meeting and shall give public notice thereof as required in section 22-30-115 (2) and in such other manner as may be deemed appropriate by the committee.

**Source:** **L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 66, § 25, effective July 1.

**Editor's note:** This section is similar to former § 22-30-119 as it existed prior to 1992.

## ANNOTATION

**Disclosure to the electorate of a committee's changes in its reorganization plan is assured** by means other than hearings, namely the "meetings to explain". Sch. Dist. No. 1 v.

Sch. Planning Comm., 164 Colo. 541, 437 P.2d 787 (1968) (decided under repealed § 123-25-19, C.R.S. 1963).

**22-30-119. Certificate of return - map.** (1) After the county clerk and recorder in each county in which the special school district organization election is held has surveyed the returns of such election, a certificate of return shall be retained on file in each office of the county clerk and recorder.

(2) If the majority vote in each affected school district is in favor of the final approved plan of organization and any increase in the mill levy to be imposed on territory affected by the plan of organization is approved by the eligible electors residing within the affected territory, the plan of organization shall be deemed adopted. If the plan of organization is adopted and it results in creation of a new school district, the county clerk and recorder in each county in which the special school district organization election was held shall furnish to the commissioner a map and legal description of the new school district with the name and number by which the same shall be designated. If the plan of organization is adopted and it results in the detachment and annexation of territory between existing school districts, the county clerk and recorder in each county in which the special school district organization election was held shall furnish to the commissioner a map and legal description of the affected school districts following detachment and annexation of the territory.

**Source: L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 56, § 8, effective July 1.

**Editor's note:** This section is similar to former § 22-30-123 as it existed prior to 1992.

**22-30-120. New school district - powers.** (1) Where the final approved plan of organization results in the creation of a new school district, if a majority of the votes cast in each affected school district in the special school district organization election are in favor of the final approved plan of organization and a majority of the eligible electors residing in the new school district voting on the question approve the estimated maximum increase in the mill levy, if any, to be imposed within the new district, then on the date specified in the final approved plan of organization, but in no event prior to the certification of the special school district organization election, the new school district shall become a body corporate and as such shall organize under the name and number stated in the final approved plan of organization and in such name may take, hold, and convey property, both real and personal, and be a party to suits and contracts.

(2) If the final approved plan of organization results in the detachment and annexation of territory between existing school districts and a majority of the votes cast in each affected school district in the special school district organization election are in favor of the final approved plan of organization and the eligible electors residing within the affected territory approve the imposition of the mill levy imposed in the annexing school district, if greater than that imposed in the detaching school district, the detachment and annexation shall be effective for all purposes on the date specified in the plan of organization but in no event prior to the certification of the special school district organization election. The detaching school district and the annexing school district shall continue as bodies corporate in the same manner as prior to the detachment and annexation.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** Entire section amended, p. 57, § 9, effective July 1.

**Editor's note:** This section is similar to former § 22-30-124 as it existed prior to 1992.



## ANNOTATION

**Annotator's note.** Since § 22-30-120 is similar to § 22-30-124 as it existed prior to the 1992 repeal and reenactment of this article and repealed § 123-25-24, CRS 53, relevant cases construing those provisions have been included in the annotations to this section.

**School board has power to enter into long-term leases.** This section and § 31-12-501 make it clear that the school board has the power "to enter into long term rental or leasehold agreements" which should not exceed thirty years in duration. Bd. of Dirs. of Summit Sch. Dist. No. RE-1 v. Jeffrey, 149 Colo. 579, 370 P.2d 447 (1962).

**This section establishes school districts as quasi-municipal corporations** with the same powers as municipal corporations. Bd. of Dirs. of Summit Sch. Dist. No. RE-1 v. Jeffrey, 149 Colo. 579, 370 P.2d 447 (1962).

**Leases with the federal government.** This section empowers the school board to enter into

a long term lease with the federal government relating to use of land for school facilities, containing ample protection for district investment in event of cancellation. Bd. of Dirs. of Summit Sch. Dist. No. RE-1 v. Jeffrey, 149 Colo. 579, 370 P.2d 447 (1962).

**An old district has no authority by statute or implication to enter into a contract for another district** and thereby infringe upon the powers and duties of such other district or impose claims upon its assets. Achenbach v. Sch. Dist. No. RE-2, 176 Colo. 437, 491 P.2d 57 (1971).

**Therefore, an old district's authority to enter into employment agreements is limited to the "lame duck" period of time concluding at the end of the current school year.** Achenbach v. Sch. Dist. No. RE-2, 176 Colo. 437, 491 P.2d 57 (1971).

**22-30-120.5. Effective date for purposes of school finance.** Notwithstanding the provisions of section 22-30-120, for purposes of determining funding under the "Public School Finance Act of 1994", article 54 of this title, any plan of organization approved at a special school district organization election shall take effect on the next July 1 following certification of the election results.

**Source: L. 96:** Entire section added, p. 57, § 10, effective July 1.

**22-30-121. Rejection of final approved plan.** (1) The plan of organization shall be deemed rejected if:

(a) The majority vote in any affected school district at the special school district organization election is not in favor of the final approved plan of organization; or

(b) A majority of the eligible electors who reside in territory that would be subject to an increase in the mill levy, if required by the final approved plan of organization, does not approve the mill levy increase.

(2) (a) If the final approved plan of organization involves fewer than three existing school districts and the final approved plan of organization is rejected, the committee shall be dissolved.

(b) If the final approved plan of organization involves three or more existing school districts and the final approved plan of organization is approved in at least two of the affected school districts, the members of the planning committee who were appointed from the approving school districts may continue as a planning committee and prepare and submit a new plan of organization involving only those school districts in which the plan of organization was approved.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** Entire section amended, p. 58, § 11, effective July 1.

**Editor's note:** This section is similar to former § 22-30-125 as it existed prior to 1992.

**22-30-121.5. New school district - election concerning financial matters.** When there is a reorganization under the provisions of this article and the final approved plan of organization requires an election concerning financial matters, the chair of the committee shall call for a special election concerning financial matters in the new or annexing school

district. The special election shall be held on the date specified in the final approved plan of organization and may be held in conjunction with the election on the approved plan of organization. If a mill levy increase is required under the final approved plan of organization for any territory affected by the final approved plan of organization, approval of such a mill levy increase by the eligible electors residing in such territory is a prerequisite to adoption of the final approved plan of organization.

**Source: L. 96:** Entire section added, p. 58, § 12, effective July 1.

**22-30-122. Election of school directors in new school districts.** (1) When a new school district is formed under the provisions of this part 1, the chair of the committee shall call for a special election in such new school district for the selection of a board of education for the school district, to be held on the day specified in the final approved plan of organization. At such election, five or seven school directors, the number having been established in the final approved plan of organization pursuant to the provisions of section 22-30-114 (1) (h), shall be elected for four-year terms as follows:

(a) When five school directors are to be elected at such election, two school directors shall be elected to serve until the next regular biennial school election and three school directors shall be elected to serve until the second regular biennial school election. As the term of office of each school director expires, a successor shall be elected for a four-year term of office.

(b) When seven directors are to be elected at such election, three school directors shall be elected to serve until the next regular biennial school election and four school directors shall be elected to serve until the second regular biennial school election. As the term of office of each school director expires, a successor shall be elected for a four-year term of office.

(c) The election of new school directors pursuant to this section shall be held in accordance with the "Colorado Election Code of 1980", referred to after January 1, 1993, as the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., except as otherwise provided in this article.

(2) Within ten days after the first election of members of the board of education, the members so elected for such new school district shall meet and shall elect officers as provided by law and thereupon enter upon and perform all the duties and exercise all the powers of a board of education. Such officers shall be selected to serve until the next regular biennial school election.

(3) When the members of the board of education of the new school district assume their duties as provided in this article, the board of education of any school district situated wholly within said new school district shall cease to function, and the terms of office of the members thereof shall thereupon automatically expire.

(4) Any person desiring to be a candidate for the office of director of a new school district formed under the provisions of this article shall be an eligible elector of the school district and, if directors in such new school district are elected under a director district plan of representation, a resident of the director district which the candidate seeks to represent. Each such candidate shall be nominated in the manner otherwise provided by law for school directors.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** IP(1) amended, p. 59, § 13, effective July 1.

**Editor's note:** This section is similar to former § 22-30-126 as it existed prior to 1992.

#### ANNOTATION

**A candidate residing in and nominated from a subdistrict, but elected by votes of electors of the entire district,** is properly

elected. *Berni v. Cook*, 153 Colo. 444, 386 P.2d 588 (1963) (decided under repealed § 123-25-27, CRS 53, as amended, 1960.)



**22-30-123. Status of old school district - assets.** (1) When a portion of the territory of a school district is included within a new school district organized under the provisions of this article, such portion of the territory of the old school district shall be detached by operation of law when the new school district becomes a body corporate, and it shall become territory of the new school district. When all of the territory of an old school district is included within a new school district or school districts, if the eligible electors of more than one proposed new school district simultaneously adopt the plans of organization, the corporate status of the old school district or school districts shall be dissolved by operation of law when said new school district becomes a body corporate.

(2) Unless otherwise provided in the plan of organization, when a new school district formed under this article embraces all of the territory of an old school district, all of the assets of the old school district, including all personal and real property, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall become the property of the new school district. The board of education of the successor new school district as designated in the plan of organization shall have all rights, powers, and duties for administering payment of said outstanding bonded indebtedness obligations in accordance with section 22-30-114 (2).

(3) Unless otherwise provided in the plan of organization, when only a portion of the territory of a school district is included within a new school district organized under the provisions of this article, or when all of the territory of an old school district is included in more than one new school district organized simultaneously, all of the assets of the old school district shall be apportioned between the old school district and the new school district, or between the two or more new school districts, if applicable, in the manner prescribed in subsection (4) of this section. If the corporate status of the old school district is not dissolved as a result of the organization of the new school district, the board of education of the old school district shall continue to perform duties and exercise powers delegated concerning the administering of the payment of its previously incurred bonded indebtedness, even though such territory is detached, except insofar as a new school district has voted to assume a proportionate share of said bonded indebtedness in the manner authorized by law. If the corporate status of the old school district is dissolved as a result of it having been wholly included within a new school district or school districts as specified in subsection (1) of this section, the board of education of the new school district shall perform the duties and exercise the powers delegated for administering payment of such bonded indebtedness with due regard to any proportionate share thereof which may have been assumed by a new school district in the manner authorized by law.

(4) Unless otherwise provided in the plan of organization, when the conditions prescribed in subsection (3) of this section occur, all of the assets of the old school district, including all personal and real properties except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new school district or school districts or between the two or more new school districts, if applicable, as follows:

(a) All real property shall remain or become the property of the old school district or new school district in which located.

(b) All personal property, except cash assets, but including moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall remain or become the property of the old school district or new school district in which located.

(c) All cash assets, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new school district or between the two or more new school districts, if applicable, on the basis of the most recent annual report of school enrollment of each such old school district. The apportionment of moneys under this paragraph (c) shall be made by the county treasurer, under the direction of the commissioner and in accordance with the provisions of the plan of organization, monthly as the moneys become available. If there are any unpaid school district taxes on the date upon which the new school district becomes a body corporate other than taxes levied for the satisfaction of bonded indebtedness, the county treasurer, under the direction of the commissioner and in accordance with the

provisions of the plan of organization, shall apportion the revenues from such unpaid taxes monthly, when such revenues accrue after the new school district has become a body corporate, between the old school district and the new school district or school districts, or between the two or more new school districts, if applicable, in accordance with the location of the property from which such tax revenues shall accrue.

(5) (a) In the event only one new school district embraces all of the territory of an old school district, the new school district shall assume all of the outstanding obligations and liabilities of the dissolved school district, except those for previously incurred bonded indebtedness; but bonded indebtedness incurred by the former school district may be assumed by the new school district as provided in section 22-30-125.

(b) When the old school district remains in existence, even though a portion of the territory has been incorporated within a new school district, previously incurred bonded indebtedness of such old school district shall be paid as provided in sections 22-30-124 and 22-42-122; and, except when the plan of organization provides otherwise, the school district from which the territory was removed shall remain liable for all other previously incurred liabilities and obligations.

(c) Unless otherwise provided in the plan of organization, when two or more new school districts organized simultaneously shall include all of the territory of an old school district, each new school district shall be jointly and severally liable for all of the outstanding liabilities and obligations of the dissolved school district, except those outstanding obligations and liabilities previously incurred for bonded indebtedness; but a proportionate share of the previously incurred bonded indebtedness may be assumed as provided in section 22-30-125.

(6) If, upon the effective date of the organization of a new school district, as specified in section 22-30-120, a school district included in a plan of organization has a warrant indebtedness or outstanding liability, other than bonded indebtedness, in excess of the equivalent of one-half mill on its valuation for assessment, then the board of education of any successor school district is authorized to levy a special tax, not to exceed one mill, against the taxable property of the old school district, the revenue from which shall be applied to the retirement of the warrant indebtedness or outstanding liabilities of such school district. When they are retired, the levy shall be discontinued. The procedures to be followed under the provisions of this subsection (6) shall be the same as provided in this title for the retirement of bonded indebtedness.

**Source:** L. 92: Entire article R&RE, p. 506, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-127 as it existed prior to 1992.

#### ANNOTATION

**Annotator's note.** Since § 22-30-123 is similar to § 22-30-127 as it existed prior to the 1992 repeal and reenactment of this article and to repealed § 123-25-28, CRS 53, as amended, and CSA, C. 146, § 66, relevant cases construing those provisions have been included in the annotations to this section.

**This section establishes procedures for the disposition of assets of reorganized districts where the reorganization plan does not otherwise provide for their distribution.** *Las Animas County High Sch. Dist. v. Raye*, 144 Colo. 367, 356 P.2d 237 (1960).

**Where land had come under the ownership of an old school district through adverse possession, it becomes an asset of a new district upon reorganization.** *Oveson v. Sch. Dist. No. 9R*, 161 Colo. 467, 423 P.2d 18 (1967).

**An individual taxpayer has no property interest in assets devoted to school purposes.** *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**Nor do district directors.** School district directors have no property interest as such in school property; rather, the property is the district's. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).

**Transfer of district property to new district does not invade constitutional rights.** The argument that by the transfer of property from an old school district to a new one the constitutional rights of the school directors or individual taxpayers of the old district have been invaded is not sound. *Hazlet v. Gaunt*, 126 Colo. 385, 250 P.2d 188 (1952).



**An old district's authority to enter into employment agreements for operation of its schools is limited** to the "lame duck" period of time concluding at the end of the current school year. *Achenbach v. Sch. Dist. No. RE-2*, 176 Colo. 437, 491 P.2d 57 (1971).

**An organization election is presumed valid.** Although the joint district's election returns, as certified to the committee, are silent as to whether the joint district's board of education

complied in every detail with the statutory election procedures, that election carries a presumption of validity. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**The burden of proof is on one who challenges** an organization election to show by competent evidence noncompliance with the mandatory statutory procedures. *Sch. Dist. No. 1 v. Sch. Planning Comm.*, 164 Colo. 541, 437 P.2d 787 (1968).

**22-30-124. Existing bonded indebtedness.** (1) The bonded indebtedness of any school district outstanding at the time of inclusion of all or any part of such school district's territory in a new school district organized under this part 1, or in an existing school district as part of a detachment and annexation under this part 1, shall be paid in the following manner:

(a) All of said bonded indebtedness of such old school district shall be paid by the old school district that issued and owes the same by a special tax levied from time to time as may be necessary by the board of education of the new school district or the annexing school district, which special tax shall be levied upon the same taxable property that would have been levied upon to pay said indebtedness of said old school district if no reorganization had occurred, except as is provided in this article to the contrary.

(b) If the assumption of all of said bonded indebtedness by one new school district or an annexing school district has been approved as provided in section 22-30-125, such bonded indebtedness shall be paid in the manner provided by law for the paying of any bonded indebtedness that the new school district contracts pursuant to section 22-30-127 or that the annexing school district contracts pursuant to article 42 of this title.

(c) If the assumption of only a portion of said bonded indebtedness, as provided in the plan of organization, has been approved by any new or annexing school district, as provided in section 22-30-125, such portion of the bonded indebtedness shall be paid by a tax levied from time to time on all the taxable property located within the new or annexing school district.

(2) Whenever two or more old school districts, or portions of such school districts, have been reorganized and included within a new school district and whenever an old school district has been dissolved and included in any other school district or school districts, under the provisions of this article, and at the time of such reorganization or dissolution and inclusion one or more of said old school districts has outstanding bonded indebtedness, which indebtedness has not been assumed by said new school district pursuant to section 22-30-125, the following duties and responsibilities shall be performed by the following officers:

(a) The board of education of such new school district shall certify to the board of county commissioners under separate headings the following: The numbers of all old school districts which had any bonded indebtedness outstanding at the time said old school districts were reorganized and united into such new school district; the legal description of the property of such old school districts, which property is liable for payment of all or a portion of the outstanding bonded indebtedness of such school districts; the amount of such indebtedness which is outstanding; and the amount required for the ensuing calendar year to meet the interest and principal falling due therein.

(b) The board of county commissioners shall levy, segregated under separate headings for the said old school districts and for the whole of said new school district, the several amounts properly applicable thereto for taxes at the same time that other taxes are levied and at such rates, as to each such old school district and as to the whole of said new school district, for the payment of the moneys required for said amounts of either principal or interest, or both, and for the other funds needed by said new school district, certified by the board of education as will produce the several amounts so certified.

(c) The amounts of said taxes which shall be levied on the several portions of said new school district and on the entire new school district shall be placed in separate columns in the tax book, which columns shall be headed "special school tax" and shall be subdivided

into separate columns designated by the numbers of the old school districts by which said bonded indebtedness was issued, showing what portion of said special tax is for the purposes of the entire new school district and what portion is for interest or principal of bonded indebtedness of old school districts, to which indebtedness said old school districts were subject at the time of reorganization or dissolution, and inclusion of such old school districts in the new school district.

(d) The county assessor and the county treasurer shall so arrange their tax schedules and books as to conform to the provisions of this section and with column headings respectively for the entire new school district subdivided into columns designated by parentheses, with the number of the old school district by which such bonded indebtedness was created and which indebtedness is undischarged, and showing, as to each property listed, the amount of tax properly levied on such property on account of such bonded indebtedness existing against said property as a portion of the old school district reorganized or dissolved, and included within the new school district at the time of said levy.

**Source:** **L. 92:** Entire article R&RE, p. 509, § 1, effective June 1. **L. 94:** (1)(c) amended, p. 1278, § 2, effective May 22. **L. 96:** (1) amended, p. 59, § 14, effective July 1.

**Editor's note:** This section is similar to former § 22-30-128 as it existed prior to 1992.

**22-30-125. Election on assuming the existing bonded indebtedness.** (1) The committee may submit the issue of assuming the bonded indebtedness of any school district, or of any portion thereof, existing at the time of inclusion in the proposed new school district or proposed to be included in a detachment and annexation to the eligible electors of such new or annexing school district. If the committee so decides, the question shall be submitted at the special school district organization election.

(2) (a) The election shall be held pursuant to the provisions of section 22-30-104. The outstanding bonded indebtedness incurred by more than one school district, or the proportionate shares thereof, may be assumed simultaneously by a new school district under the provisions of this section through the submission of a single ballot, but voting on separate amounts or alternative voting on one ballot shall be prohibited.

(b) If one or more whole school districts have been included in a new school district, the ballot shall contain a statement of the amount or amounts of outstanding bonded indebtedness proposed to be assumed by the new school district.

(c) If only a portion of the territory of an old school district has been included in a new school district, the ballot shall contain a statement of the proportionate share of the outstanding bonded indebtedness incurred by said old school district to be assumed by the new school district as set forth in the plan of organization.

(d) If printed ballots are used, the ballot shall be printed or typewritten and shall contain the words "official ballot", below which shall be set forth the amount of outstanding bonded indebtedness to be assumed, or that a proportional share of such amount is proposed to be assumed, as the case may be, by the new or annexing school district, the name and number of each old school district that incurred said bonded indebtedness, and, if the ballot contains more than one amount to be assumed, the total of such amounts.

(3) If a majority of the eligible electors voting on the proposed question vote for the assumption of the bonded indebtedness, the public officials shall perform the duties set forth in sections 22-42-117 to 22-42-121 that are necessary to assure that the assumed bonded indebtedness is paid in the manner provided by law for the paying of any bonded indebtedness that the new or annexing school district contracts.

**Source:** **L. 92:** Entire article R&RE, p. 511, § 1, effective June 1. **L. 94:** (2)(c) amended, p. 1278, § 3, effective May 22. **L. 96:** (1), (2)(d), and (3) amended, p. 59, § 15, effective July 1.

**Editor's note:** This section is similar to former § 22-30-137 as it existed prior to 1992.



## ANNOTATION

**For previous submission of issue by board of education,** see *Hawkins v. Cline*, 161 Colo. 141, 420 P.2d 400 (1966) (decided under repealed § 123-25-44, C.R.S. 1963).

**22-30-125.5. Authorization of new bonded indebtedness or assumption of existing bonded indebtedness.** No new bonded indebtedness shall be authorized and no existing bonded indebtedness shall be assumed unless approved by a majority of votes cast by the eligible electors of the school district that will issue or assume such bonded indebtedness at the same election at which the plan of organization is approved or at a subsequent election.

**Source: L. 94:** Entire section added, p. 1278, § 4, effective May 22.

**22-30-126. Limit of bonded indebtedness - new school district.** (1) Any new school district organized under this article shall have a limit of bonded indebtedness of the greater of the following:

(a) Twenty percent of the latest valuation for assessment of the taxable property in such school district, as certified by the county assessor to the board of county commissioners; or

(b) Six percent of the most recent determination of the actual value of the taxable property in the school district, as certified by the county assessor to the board of county commissioners.

(2) The indebtedness of the old school districts or parts of school districts constituting the new school districts shall not be considered in fixing the limit of bonded indebtedness; but, if any new school district shall assume the bonded indebtedness of any school district or school districts, or a proportionate share thereof, existing at the time of inclusion in the new school district, pursuant to the provisions of section 22-30-125, such bonded indebtedness shall be included in the limitation.

**Source: L. 92:** Entire article R&RE, p. 513, § 1, effective June 1. **L. 96:** Entire section amended, p. 60, § 16, effective July 1.

**Editor's note:** This section is similar to former § 22-30-129 as it existed prior to 1992.

**22-30-127. New school district - bonded indebtedness.** (1) Any new school district organized under the provisions of this article has the power and authority to contract bonded indebtedness in the same manner and under the same procedure for the issuance of bonds as is provided by law for the issuance of such bonds by other school districts.

(2) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding indebtedness of said new school district in the same manner and procedure as is provided by law for the issuance of such bonds by other school districts.

(3) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding indebtedness of old school districts, which old school districts have been reorganized or dissolved, and included within said new school district and which indebtedness has been assumed by said new school district pursuant to section 22-30-125. Such refunding bonds shall be issued in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new school district under the provisions of this article.

(4) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding bonded indebtedness of old school districts, which old school districts have been reorganized or dissolved, and included within said new school district, and which indebtedness has not been assumed by the new school district, in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new school district under the provisions of this article, except for the following particulars:

(a) Said bonds shall be designated as refunding bonds of the old school district which contracted the original indebtedness in the first instance. The refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds of the old school district if no refunding thereof had ever occurred.

(b) The covenants and agreements in and relating to such refunding bonds shall be made and entered into by the new school district as successor to the old school district, and all necessary actions shall be taken by the board of education of the new school district as successor to the board of education of the old school district.

(5) Whenever any old school district has been reorganized and parts thereof included within two or more new school districts, and whenever an old school district has been dissolved and parts thereof included in two or more other school districts, under the provisions of this article, and said old school district has outstanding bonded indebtedness, the refunding of such outstanding indebtedness of said former school district shall require affirmative action by a majority of the members of the boards of education of each new school district within which any part of the lands formerly included within said old school district are now included, except as is provided in this article to the contrary.

(6) Any school district from which land has been detached and included within any other school district, by reorganization or any other lawful means, and which school district has retained its lawful corporate existence subsequent to the detachment of such land from said school district shall be specifically exempted from the requirements and provisions of subsection (5) of this section, and the board of education of said school district from which land has been detached may refund its bonds to which such detached land is subject with or without concurrence or action by the board of education of the school district within which said detached land is then included.

**Source: L. 92:** Entire article R&RE, p. 513, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-130 as it existed prior to 1992.

**22-30-128. Detachment and annexation of territory - exemptions from school district organization planning process.** (1) Notwithstanding the provisions of this article, where territory in a school district has been erroneously included on the property tax rolls of an adjoining school district for at least one year and the error was unintentional, said territory may be detached and annexed to said adjoining school district as provided in this subsection (1) and subsections (2) to (6) of this section, without complying with the school district organization planning process as specified in this article.

(2) (a) The boards of education of the detaching and annexing school districts specified in subsection (1) of this section shall each adopt a resolution agreeing to the detachment and annexation of the territory erroneously included on the annexing school district's property tax rolls. The resolutions shall include a legal description of the territory to be detached and annexed and a legal description of the new boundaries of the school districts following detachment and annexation. The proposed new school district boundaries shall correspond to the legal description of the territory to be detached and annexed.

(b) Following adoption of the resolutions, the boards of education of the school districts shall submit to the commissioner a certified copy of their respective resolutions and a map of the detaching and annexing school districts after the proposed detachment and annexation of territory. The commissioner shall approve the resolutions if the commissioner or his or her designee determines that they comply with the provisions of this section.

(3) (a) After approval of the resolutions by the commissioner, except as otherwise provided in subsection (4) of this section, the board of education of the detaching school district shall call for and establish the date of a special school district organization election wherein the eligible electors who reside within the territory proposed to be detached and annexed shall vote upon the detachment and annexation. The board of education of the detaching school district shall name a designated election official who shall be responsible for conducting the election.



(b) If a special school district organization election is held pursuant to paragraph (a) of this subsection (3) and there is no suitable polling place within the territory to be detached and annexed, the board of education of the detaching school district shall designate one or more polling places beyond the limits of said territory.

(c) If a majority of the eligible electors voting at the special school district organization election held pursuant to paragraph (a) of this subsection (3) vote in favor of the detachment and annexation, or if no eligible electors vote in the election, the territory shall be detached and annexed upon the thirtieth day after the date of the election; except that, if the detaching and annexing school districts and the county assessor have located the territory in the annexing school district for longer than one tax year since the filing of the plat for a subdivision located within the territory, the detachment and annexation shall be effective as of the date that the approved subdivision plat was accepted for recordation and filed in the county in which the territory is located.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, the detaching school district need not call a special school district organization election if the board of education of the detaching school district submits the resolutions required in paragraph (a) of subsection (2) of this section and certifies to the commissioner that:

(I) Ten or fewer eligible electors reside within the territory to be detached and annexed and that each of these eligible electors has submitted to the board of education of the detaching school district a notarized statement of consent to the proposed detachment and annexation; or

(II) No eligible electors reside within the territory proposed to be detached.

(b) If no election is held as provided in paragraph (a) of this subsection (4), the proposed detachment and annexation of territory shall take effect on the thirtieth day after the commissioner's approval of the resolutions under paragraph (b) of subsection (2) of this section, except as otherwise provided in paragraph (c) of subsection (3) of this section.

(5) After the election, as provided in subsection (3) of this section, or certification, as provided in subsection (4) of this section, the commissioner shall forward to the clerk and recorder of the county in which the election is held and to the county assessor of the county in which the territory is located copies of the resolutions submitted under this section, including the legal descriptions of the school districts after detachment and annexation, and a map of the new boundaries for the school districts.

(6) The assets and liabilities of the school district from which territory was detached pursuant to this section shall be apportioned, distributed, and paid in the manner prescribed in sections 22-30-123 and 22-30-124.

(7) Repealed.

**Source:** L. 95: Entire section added, p. 603, § 1, effective May 22. L. 96: (1) amended and (7) added, p. 99, § 1, effective March 20; (3) and IP(4)(a) amended, p. 66, § 26, effective July 1.

**Editor's note:** Subsection (7)(f) provided for the repeal of subsection (7), effective December 31, 1998. (See L. 96, p. 99.)

## PART 2

### JOINT TAXATION DISTRICTS

**22-30-201. Joint taxation districts - authorized.** (1) (a) A plan of organization in which one or more new school districts are formed within the boundaries of an existing school district may provide that any two or more school districts included in the plan shall comprise a joint taxation district. The boundaries of the original school district shall be the boundaries of the joint taxation district. A joint taxation district formed pursuant to this part 2 shall be a body corporate and a political subdivision of the state.

(b) A joint taxation district may be formed to incur bonded indebtedness for the purposes listed in section 22-42-102 (2) (a) and raise and expend property taxes to retire such bonded indebtedness or to raise and expend additional local property tax revenues in

excess of the participating school districts' total program, pursuant to section 22-54-108 or 22-54-108.5.

(2) (a) A plan of organization that involves a joint taxation district may provide that two or more school districts that result from the reorganization of a single school district may share the valuation for assessment of the taxable property in each school district for the purposes stated in the plan of organization, as limited under paragraph (b) of subsection (1) of this section.

(b) For the purpose of determining the limit of bonded indebtedness pursuant to section 22-42-104 for any school district that is participating in a joint taxation district, a portion of the bonded indebtedness of the joint taxation district, determined pursuant to the apportionment formula in the plan of organization, shall be added to the bonded indebtedness of the school district. The total bonded indebtedness of the joint taxation district, as apportioned among and added to the bonded indebtedness of the participating school districts, shall not cause any of the participating school districts to exceed its limit of bonded indebtedness pursuant to section 22-42-104.

(c) The plan of organization:

(I) May place a limit on the bonding capacity of the joint taxation district in addition to any other limitation on bonded indebtedness;

(II) Shall specify whether the joint taxation district shall continue indefinitely or for a specified period of time;

(III) Shall include a formula for the equitable apportionment of tax revenues from any property tax levied by the joint taxation district;

(IV) Shall include a formula for apportioning the bonded indebtedness of the joint taxation district for the purposes of section 22-42-104 among the participating school districts;

(V) Shall provide that the joint taxation district becomes a body corporate at the time the reorganization becomes effective or at some other time as specified in the plan of organization.

**Source: L. 96:** Entire part added, p. 60, § 17, effective July 1. **L. 2007:** (1)(b) amended, p. 38, § 3, effective March 7.

**22-30-202. Joint taxation board.** (1) (a) Any plan of organization that establishes a joint taxation district shall provide for the creation of a joint taxation district board and shall specify the membership of the board and the method of election or appointment and terms of office for members of the board. A joint taxation district board shall consist of not fewer than five members, with each participating school district board of education entitled to at least one member on the joint taxation district board.

(b) The joint taxation district board created pursuant to paragraph (a) of this subsection (1) shall have the powers granted to it in the plan of organization as necessary to implement the provisions of this part 2. These powers may include, but are not limited to:

(I) Calling for and certifying elections with regard to bonded indebtedness;

(II) Calling for and certifying elections to raise and expend local property tax revenues in excess of the participating school districts' total program, pursuant to section 22-54-108 or 22-54-108.5;

(III) Any other powers that a school district may have with regard to issuing, paying, or refunding bonded indebtedness of the joint taxation district.

(2) For purposes of calling for and certifying elections with regard to bonded indebtedness, revenue, or spending limits that are under the authority of the joint taxation district board pursuant to the plan of organization, the joint taxation district board shall assume the powers and duties granted by law to a school district or a school district board of education.

**Source: L. 96:** Entire part added, p. 62, § 17, effective July 1. **L. 2007:** (1)(b)(II) amended, p. 38, § 4, effective March 7.



ARTICLE 30.5

Charter Schools

**Law reviews:** For comment, “The Colorado Charter Schools Act and the Potential for Unconstitutional Applications under Article IX, Section 15 of the State Constitution”, see 67 U. Colo. L. Rev. 171 (1996).

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## PART 1

## CHARTER SCHOOLS ACT

**22-30.5-101. Short title.** This part 1 shall be known and may be cited as the “Charter Schools Act”.

**Source:** **L. 93:** Entire article added, p. 1051, § 1, effective June 3. **L. 96:** Entire section amended, p. 667, § 3, effective May 2.

## ANNOTATION

**Charter Schools Act does not violate the equal protection clause of the United States Constitution.** Because the act is facially neutral and does not implicate a fundamental right, the act must be reviewed under a rational relationship test. Colorado has a legitimate governmental interest in encouraging innovation in education and the act is rationally related to such an interest. *Villanueva v. Carere*, 873 F. Supp. 434

(D. Colo. 1994), *aff’d*, 85 F.3d 481 (10th Cir. 1996).

**Charter schools established pursuant to this act are public entities and, thus, absent a Governmental Immunity Act immunity exception, entitled to immunity from liability in claims that lie in tort or could lie in tort.** *King v. U.S.*, 53 F. Supp.2d 1056 (D. Colo. 1999).

**22-30.5-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is the obligation of all Coloradans to provide all children with schools that reflect high expectations and create conditions in all schools where these expectations can be met;

(b) Education reform is in the best interests of the state in order to strengthen the performance of elementary and secondary public school pupils, that the best education decisions are made by those who know the students best and who are responsible for implementing the decisions, and, therefore, that educators and parents have a right and a responsibility to participate in the education institutions which serve them;

(c) Different pupils learn differently and public school programs should be designed to fit the needs of individual pupils and that there are educators, citizens, and parents in Colorado who are willing and able to offer innovative programs, educational techniques, and environments but who lack a channel through which they can direct their innovative efforts.

(2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(a) To improve pupil learning by creating schools with high, rigorous standards for pupil performance;

(b) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving;

(c) To encourage diverse approaches to learning and education and the use of different, innovative, research-based, or proven teaching methods;

(d) To promote the development of longitudinal analysis of student progress, in addition to participation in the Colorado student assessment program, to measure pupil learning and achievement;

(e) To create new employment options and professional opportunities for teachers and principals, including the opportunity to be responsible for the achievement results of students at the school site;

(f) To provide parents and pupils with expanded choices in the types of education opportunities that are available within the public school system;

(g) To encourage parental and community involvement with public schools;

(g.5) To address the formation of research-based charter schools that use programs that are proven to be effective;

(h) To hold charter schools accountable for performance through the “Education Accountability Act of 2009”, including but not limited to meeting state, school district, and

school targets for the measures used to determine the levels of attainment of the performance indicators;

(i) To provide an avenue for citizens to participate in the educational process and environment;

(j) To provide citizens with multiple avenues by which they can obtain authorization for a charter school.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members to implement new and innovative methods of educating children that are proven to be effective and to take responsible risks and create new and innovative, research-based ways of educating all children within the public education system. The general assembly seeks to create an atmosphere in Colorado's public education system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

**Source:** **L. 93:** Entire article added, p. 1051, § 1, effective June 3. **L. 94:** (2)(g.5) added, p. 1378, § 1, effective May 25. **L. 96:** IP(2) and (3) amended, p. 668, § 4, effective May 2; (2)(c) amended, p. 752, § 1, effective May 22. **L. 2004:** (2)(c), (2)(d), (2)(e), (2)(g.5), (2)(h), and (3) amended and (2)(i) and (2)(j) added, p. 1569, § 1, effective June 3. **L. 2009:** (2)(h) amended, (SB 09-163), ch. 293, p. 1534, § 25, effective May 21.

**Cross references:** For the "Education Accountability Act of 2009", see article 11 of this title.

#### ANNOTATION

**Attendance at a charter school is not a constitutional right.** At most, it is a statutory right, and the government has no constitutional obligation to fund a mere statutory right. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

**Trial court did not err in dismissing a third-party claim to enforce the contract** brought on behalf of the charter school because the intended beneficiaries of the charter school

are the school children and a charter school cannot be a party and a third-party beneficiary at the same time. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

**Applied** in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

**22-30.5-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

(2) "Charter school" means a public school that enters into a charter contract pursuant to the provisions of this part 1.

(3) "Department" means the department of education created pursuant to section 24-1-115, C.R.S.

(3.5) "Education management provider" means a nonprofit, not-for-profit, or for-profit entity that contracts with a charter school to provide, manage, or oversee all or substantially all of the educational services provided by the charter school. Education management provider does not include a charter school collaborative established pursuant to part 6 of article 30.5 of this title.

(4) "Local board of education" means the school district board of education.

(5) "Moratorium" means a school district's official policy of refusing to authorize charter schools and an ongoing pattern or practice of refusing to accept or review charter school applications.

(6) "On-line pupil" means:

(a) For the 2007-08 budget year, a child who receives educational services predominantly through an on-line program or on-line school created pursuant to article 30.7 of this title.



(b) For the 2008-09 budget year, and for each budget year thereafter, a child who receives educational services predominantly through a multi-district on-line school, as defined in section 22-30.7-102 (9.5), created pursuant to article 30.7 of this title.

(6.5) "Private school" means a primary or secondary educational institution for students in kindergarten through twelfth grade or any portion thereof that may or may not have attained nonprofit status, that does not receive state funding through the "Public School Finance Act of 1994", article 54 of this title, and that is supported in whole or in part by tuition payments or private donations.

(6.6) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(6.7) "School food authority" means:

- (a) A school district or the state charter school institute;
- (a.3) A charter school collaborative formed pursuant to section 22-30.5-603;
- (a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(7) "State board" means the state board of education.

**Source:** **L. 93:** Entire article added, p. 1052, § 1, effective June 3. **L. 96:** IP(1) amended, p. 668, § 5, effective May 2. **L. 2002:** (1)(b.5) added, p. 1749, § 21, effective June 7. **L. 2004:** Entire section amended, p. 1570, § 2, effective June 3. **L. 2006:** (6.5) added, p. 669, § 9, effective April 28. **L. 2007:** (6) amended, p. 1085, § 6, effective July 1. **L. 2009:** (6.7) added, (SB 09-230), ch. 227, p. 1033, § 2, effective May 4. **L. 2010:** (6.7)(a) amended and (6.7)(a.5) added, (HB 10-1335), ch. 326, p. 1512, § 3, effective August 11; (6.7)(b)(I) amended, (HB 10-1422), ch. 419, p. 2076, § 40, effective August 11. **L. 2011:** (6.7)(a.3) added, (HB 11-1277), ch. 306, p. 1504, § 31, effective August 10. **L. 2012:** (6.6) added, (HB 12-1090), ch. 44, p. 150, § 6, effective March 22; (3.5) added, (SB 12-061), ch. 109, p. 375, § 2, effective April 13; (3.5) and (6) amended, (HB 12-1240), ch. 258, pp. 1333, 1316, §§ 53, 25, effective June 4; (3.5) added, (SB 12-067), ch. 131, p. 450, § 1, effective August 8.

**22-30.5-104. Charter school - requirements - authority.** (1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) (a) A charter school applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) A charter school shall be a public school of the school district that approves its charter application and enters into a charter contract with the charter school. In accordance with the requirement of section 15 of article IX of the state constitution, the charter school shall be subject to accreditation by the school district's local board of education pursuant to the school district's policy for accrediting the public schools of the school district adopted pursuant to section 22-11-307 and section 22-32-109 (1) (mm). The charter school shall also be subject to annual review by the department pursuant to section 22-11-210.

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the chartering school district. Enrollment in a charter school must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by

state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(4) (a) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the chartering local board of education. Effective July 1, 2013, each charter school that was initially chartered on or after August 6, 1997, shall organize as a nonprofit corporation pursuant to the “Colorado Nonprofit Corporation Act”, articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law. Notwithstanding organization as a nonprofit corporation, a charter school shall annually complete a governmental audit that complies with the requirements of the department of education.

(b) An entity that holds a charter authorized pursuant to this part 1 may choose to contract with an education management provider, which education management provider may be a for-profit, a nonprofit, or a not-for-profit entity, so long as the charter school maintains a governing board that is independent of the education management provider.

(4.5) (a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) (Deleted by amendment, L. 2004, p. 1571, § 3, effective June 3, 2004.)

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) (a) Pursuant to contract, a charter school may operate free from specified school district policies and free from state rules, as provided in paragraph (b) of this subsection (6). Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board; except that a charter school shall not, by contract or otherwise, operate free of the requirements contained in the “Public School Finance Act of 1994”, article 54 of this title, the requirements specified in part 4 of article 11 of this title concerning school accountability committees, or the requirements contained in the “Children’s Internet Protection Act”, article 87 of this title.

(b) The state board shall promulgate rules identifying state statutes and state rules that are automatically waived for all charter schools. A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not automatically waived for charter schools by rule. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to school accountability committees as described in section 22-11-401, any statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any statute or rule necessary to prepare the school performance reports pursuant to part 5 of article 11 of this title, any statute or rule necessary to implement the provisions of the “Public School Finance Act of 1994”, article 54 of this title, or any statute or rule relating to the “Children’s Internet Protection Act”, article 87 of this title.

(c) Upon request of a charter applicant, the state board and the local board of education of the school district to which the charter applicant applies shall provide summaries of the state and district rules and policies to use in preparing a charter school application. The department shall prepare the summary of state rules within existing appropriations. Any waiver of state rules or local school district regulations made pursuant to this subsection (6) shall be for the term of the charter for which the waiver is made; except that a waiver of state statutes or state board rules by the state board shall be subject to periodic review as provided by state board rule and may be revoked if the waiver is deemed no longer necessary by the state board.

(7) (a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, facilities, and personnel matters.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, the state of Colorado, a school food authority, a charter school collaborative, a board of cooperative services, another district charter school, an institute charter school, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking



that the charter school is required or chooses to perform in order to carry out the educational program described in its charter contract. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(d) A charter school or an institute charter school authorized pursuant to part 5 of this article that is operating in a school district building may purchase the building and the grounds upon which the building is located from the school district, at the school district's discretion, according to terms established by mutual agreement of the parties. If a charter school that has purchased a school building and grounds pursuant to this paragraph (d) vacates the school building and grounds or elects to sell the school building and grounds, the school district that sold the school building and grounds to the charter school pursuant to this paragraph (d) shall have first right of refusal to reacquire and purchase the property at fair market value or in accordance with other terms of repurchase established by mutual agreement of the parties.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this subsection (7), any school district that has space in district facilities that is unoccupied shall be allowed to sell the facilities or use the facilities for a different purpose and shall not be required to maintain ownership of the facilities for potential use by a charter school.

(8) A charter school shall be authorized to offer any educational program, including but not limited to an on-line program or on-line school created pursuant to article 30.7 of this title, that may be offered by a school district and that is research-based and has been proven to be effective, unless expressly prohibited by state law.

(9) All decisions regarding the planning, siting, and inspection of charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the charter school's chartering school district.

(10) A charter school may apply for authorization as a school food authority pursuant to section 22-32-120.

(11) (a) If a charter school chooses to apply, alone or with a consortium of charter schools, for a grant through a nonformulaic, competitive grant program created by a federal or state statute or program, the charter school or consortium of charter schools, pursuant to the provisions of section 22-30.5-503 (3.5), may request that the state charter school institute act as a local education agency and fiscal agent for the charter school or consortium of charter schools for purposes of grant management and liability. The charter school or consortium of charter schools shall pay the fee, if any, imposed by the state charter school institute board as provided in section 22-30.5-503 (3.5).

(b) A charter school that applies for a grant pursuant to this subsection (11) shall provide to its authorizing district:

(I) A copy of the grant application at the time the application is submitted to the grant maker;

(II) Notice that the charter school did or did not receive the grant moneys; and

(III) If the charter school receives the grant moneys, a summary of the grant requirements, a summary of how the charter school is using the grant moneys, and periodic reports on the charter school's progress in meeting the goals of the grant as stated in its application.

(c) If a charter school intends to apply for a grant that the school's authorizing school district is also intending to apply for, the charter school shall seek to collaborate with the school district in the application and to submit the application jointly. If the charter school and the school district are unable to agree to collaborate in applying for the grant, the charter school may apply for the grant pursuant to this subsection (11) independently or in collaboration with other charter schools.

**L. 96:** (6) amended, p. 752, § 2, effective May 22. **L. 97:** (2) amended, p. 585, § 14, effective April 30; (4) amended, p. 400, § 1, effective August 6. **L. 99:** (7)(b) amended, p. 1256, § 5, effective June 2; (4.5) and (8) added, p. 1209, § 1, effective August 4. **L. 2000:** (6) amended, p. 349, § 4, effective April 10; (4) amended, p. 1855, § 55, effective August 2; (9) added, p. 519, § 1, effective August 2. **L. 2001:** (6) amended, p. 1498, § 22, effective June 8. **L. 2002:** (2) and (8) amended, p. 1749, § 22, effective June 7. **L. 2003:** (6) amended, p. 2477, § 33, effective August 15. **L. 2004:** Entire section amended, p. 1571, § 3, effective June 3. **L. 2007:** (7)(e) added, p. 740, § 15, effective May 9; (7)(d) added, p. 1592, § 1, effective May 31; (8) amended, p. 1088, § 12, effective July 1. **L. 2008:** (3) amended, p. 1600, § 21, effective May 29. **L. 2009:** (7)(b) amended and (10) added, (SB 09-230), ch. 227, p. 1033, § 3, effective May 4; (2)(b) and (6)(b) amended, (SB 09-163), ch. 293, p. 1534, § 26, effective May 21; (6)(a) and (6)(b) amended, (SB 09-090), ch. 291, p. 1445, § 22, effective August 5. **L. 2010:** (7)(b) amended and (11) added, (SB 10-161), ch. 250, pp. 1115, 1117, §§ 1, 6, effective August 11. **L. 2011:** (11) amended, (HB 11-1089), ch. 55, p. 147, § 2, effective March 25; (7)(b) amended, (HB 11-1277), ch. 306, p. 1504, § 32, effective August 10. **L. 2012:** (11)(a) amended, (SB 12-121), ch. 177, p. 637, § 4, effective May 11; (8) amended, (HB 12-1240), ch. 258, p. 1316, § 26, effective June 4; (4) amended, (SB 12-067), ch. 131, p. 450, § 2, effective August 8.

**Editor's note:** (1) Amendments to subsection (5) by House Bill 94-1001 and Senate Bill 94-215 were harmonized.

(2) Amendments to subsection (6)(b) by Senate Bill 09-090 and Senate Bill 09-163 were harmonized.

**Cross references:** For the legislative declaration contained in the 1999 act amending subsection (7)(b), see section 1 of chapter 302, Session Laws of Colorado 1999. For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 341, Session Laws of Colorado 2008.

## ANNOTATION

**The express grant of standing to charter schools to sue for enforcement of service contracts clarifies the power originally granted to charter schools in the Charter Schools Act.** Because the charter contract between the parties encompasses contractual provisions related to the types of service contracts considered in this section, plaintiff had standing to bring those claims against the school district in the judicial system. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**Facilities operation and maintenance provisions entered into pursuant to subsection (7)(b) are judicially enforceable**, unlike the governing policy provisions in a charter contract entered into according to §§ 22-30.5-105 and 22-30.5-106. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**The power to enter into contracts assumes the ability to enforce those contracts.** In order to enforce a contract, one party must have some means of ensuring that the other party will obey its contractual duties. A legislative authorization

to enter into contracts could be read as implying a complementary authorization to enforce those contracts. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**The general assembly intended that charter schools have always had standing to sue their school districts for the types of contractual provisions described in this section.** The general assembly, when amending the act, meant for the amendment to serve merely as a clarification, not as a substantive change of the law. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**The waiver of a transfer policy or funding a transferred student's education in another school in the district are not permitted or contemplated services** within the meaning of subsection (7)(b) of this section or § 22-30.5-112 (2)(b). *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

**Applied** in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).



**22-30.5-104.5. Charter school and charter authorizer standards review committee - creation - duties - repeal. (Repealed)**

**Source: L. 2010:** Entire section added, (HB 10-1412), ch. 248, p. 1106, § 1, effective May 21.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective August 30, 2011. (See L. 2010, p. 1106.)

**22-30.5-105. Charter schools - contract contents - regulations.** (1) (a) An approved charter application shall serve as the basis for a contract between a charter school and the chartering local board of education.

(b) A local board of education may approve a charter school application submitted by a nonprofit entity and enter into a charter contract directly with the nonprofit entity to operate a charter school. A local board of education shall not approve a charter school application that is submitted by a for-profit entity or that identifies a for-profit entity as one of the charter applicants, and the local board of education shall not enter into a charter contract directly with a for-profit entity to operate a charter school.

(2) (a) The contract between a charter school and the chartering local board of education shall reflect all agreements regarding the release of the charter school from school district policies. Each charter school's contract shall include a statement specifying the manner in which the charter school shall comply with the intent of the state statutes, state board rules, and district rules that are waived for the charter school either automatically or by application.

(b) Repealed.

(c) A contract between a charter school and the chartering local board of education approved on or after July 1, 2002, shall specify:

(I) If the contract is not a renewal of an expiring contract, the manner in which the school district governed by the local board of education will support any start-up facility needs of the charter school;

(II) The manner in which the school district governed by the local board of education will support any long-term facility needs of the charter school;

(III) The actions that the charter school must take in order to:

(A) Have its capital construction needs included as part of the next ballot question for approval of bonded indebtedness to be submitted by the local board of education of its chartering school district to the voters of the district; or

(B) Have the local board of education submit a ballot question for approval of a special mill levy to finance the capital construction needs of the charter school to the voters of the district pursuant to section 22-30.5-405;

(IV) The financial information, including but not limited to an annual governmental audit, the charter school must report to the chartering school district, the deadline for reporting such information to the chartering school district in order to enable the chartering school district to comply with the requirements specified in this title and in rules promulgated by the state board pertaining to reporting financial information to the department of education, and the circumstances under which the chartering school district may withhold a portion of the charter school's monthly payment as provided in section 22-30.5-112 (8) for failure to comply with financial reporting requirements specified in the contract; and

(V) Whether, and the circumstances under which, the local board of education delegates to the charter school the authority to impose a transportation fee on students who are enrolled in the charter school and, if so, the procedures for imposition of the fee.

(3) A contract between a charter school and the chartering local board of education shall reflect all requests for release of the charter school from state statutes and state board rules. Within ten days after the contract is approved by the chartering local board of education, any request for release from state statutes and state board rules shall be delivered by the chartering local board of education to the state board. The chartering local board of education shall request the release on a form provided by the department. Within forty-five days after a request for release is received by the state board, the state board shall either

grant or deny the request. If the state board grants the request, it may orally notify the chartering local board of education and the charter school of its decision. If the state board denies the request, it shall notify the chartering local board of education and the charter school in writing that the request is denied and specify the reasons for denial. If the chartering local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or state board rules, the denial shall specify the state statutes and state board rules for which the release is denied, and the denial shall apply only to those state statutes and state board rules so specified.

(4) A material revision of the terms of a charter contract may be made only with the approval of the chartering local board of education and the governing body of the charter school.

(5) Any term included in a charter contract that would require a charter school to waive or otherwise forgo receipt of any amount of operational or capital construction funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. In no event shall this subsection (5) be construed to prohibit any charter school from contracting with its chartering local board of education for the purchase of services, including but not limited to the purchase of educational services.

**Source:** **L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 97:** (1) amended, p. 400, § 2, effective August 6. **L. 98:** (3) amended, p. 1209, § 1, effective August 5. **L. 2001:** (2) amended, p. 337, § 3, effective April 16. **L. 2002:** (2)(c) and (5) added, pp. 1766, 1753, §§ 33, 30, effective June 7. **L. 2004:** Entire section amended, p. 1573, § 4, effective June 3. **L. 2005:** (2)(c)(III)(B) and (2)(c)(IV) amended and (2)(c)(V) added, p. 1507, § 2, effective June 9. **L. 2007:** (2)(b) repealed, p. 745, § 28, effective May 9. **L. 2009:** (5) amended, (SB 09-256), ch. 294, p. 1555, § 12, effective May 21. **L. 2012:** (1) amended, (SB 12-067), ch. 131, p. 451, § 3, effective August 8.

#### ANNOTATION

**The general assembly did not intend approval of a charter application to establish a final contract** between the local board and the charter school proponents, but rather intended the approval to be an interim step toward creation of that contract. A local board can comply with a state board order to approve a charter application and still expect resolution of its initial grounds for denial in a satisfactory final agreement. *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

**No requirement to provide any particular level or type of long-term facility support to a charter school at the expense of local control.** Section requires only that the charter school contracts address the manner of support while retaining the ability of the district to negotiate what that support will be. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

**The governing policy provisions of a charter contract** are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**The state board of education has complete statutory authority** to settle any disputes arising

from implementation of the governing policy provisions of the charter contract, and the governing policy provisions are not subject to judicial review. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**Contract requiring a pro-rata reduction of the district per pupil revenues funding to a school for a student transferring out may violate subsection (5)** because it would include a reduction of capital construction funds and other funds covering direct and indirect costs incurred in the operation of the charter school and the education of its students, which are not enrollment sensitive. *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

In order for a contract for purchase of services from the school district to be valid, it must be at the discretion of the school, must be provided by the district at cost, and must be for a direct budgeted service of the school district, or a service, activity, or undertaking that the charter school is required or chooses to perform in order to carry out the educational program described in the charter contract. *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).



**Applied** in Acad. of Charter Schs. v. Adams 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).  
 Cty. Sch. Dist. No. 12, 994 P.2d 442 (Colo. App.

**22-30.5-106. Charter application - contents.** (1) The charter school application is a proposed agreement upon which the charter applicant and the chartering local board of education negotiate a charter contract. At a minimum, each charter school application includes:

(a) An executive summary that outlines the elements of the application and provides an overview of the proposed charter school;

(b) The vision and mission statements of the proposed charter school;

(c) The goals, objectives, and student performance standards the proposed charter school expects to achieve, including but not limited to the performance indicators specified in section 22-11-204 and applicable standards and goals specified in federal law;

(d) Evidence that an adequate number of parents and pupils support the formation of a charter school;

(e) Descriptions of the proposed charter school's educational program, student performance standards, and curriculum;

(f) A plan for evaluating student performance across the curriculum, which plan aligns with the proposed charter school's mission and educational objectives and provides a description of the proposed charter school's measurable annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204, and procedures for taking corrective action if student performance at the school falls below the described targets;

(g) Evidence that the plan for the proposed charter school is economically sound, including a proposed budget for a term of at least five years. The charter application shall also describe the method for obtaining an independent annual audit of the proposed charter school's financial statements consistent with generally accepted auditing standards and circular A-133 of the United States office of management and budget, as originally published in the federal register of June 30, 1997, and as subsequently amended.

(h) A description of the governance and operation of the proposed charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the proposed charter school, that is consistent with the standards adopted by rule of the state board pursuant to section 22-2-106 (1) (h);

(i) An explanation of the relationship that will exist between the proposed charter school and its employees and the proposed charter school's employment policies or a plan for the timely development of employment policies;

(j) A proposal regarding the parties' respective legal liabilities and applicable insurance coverage, which insurance coverage shall include, at a minimum, workers' compensation, liability insurance, and insurance for the proposed charter school's facility and its contents;

(k) The proposed charter school's expectations and plans for ongoing parent and community involvement;

(l) A description of the proposed charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3) and rules adopted by the state board pursuant to section 22-2-106 (1) (h), and the criteria for enrollment decisions;

(m) A statement of whether the proposed charter school plans to address the transportation or food service needs of its students while they are attending the school. The proposed charter school may choose not to provide transportation or food services, may choose to develop or form a charter school collaborative as described in section 22-30.5-603 to provide transportation or food services, or may choose to negotiate with a school district, board of cooperative services, or private provider to provide transportation or food services for its students. If the proposed charter school chooses to provide transportation or food services, the application shall include a plan for each provided service, which plan, at a minimum, shall specifically address serving the needs of low-income students, complying with insurance and liability issues, and complying with any applicable state or federal rules or regulations.

(n) A facilities plan that details viable facilities options that are consistent with section 22-32-124 and the reasonable costs of the facility, which are reflected in the proposed budget;

(o) A list of the waivers of statute, state rule, and school district policies that the proposed charter school is requesting, which list explains the rationale for each requested waiver and the manner in which the proposed charter school plans to meet the intent of the waived statute, rule, or policy;

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of section 22-33-106, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal “Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400 et seq.;

(q) A plan for serving students with special needs, including budget and staff requirements, which plan shall include identifying and meeting the learning needs of at-risk students, students with disabilities, gifted and talented students, and English language learners;

(r) A dispute resolution process, as provided in section 22-30.5-107.5; and

(s) If the proposed charter school intends to contract with an education management provider:

(I) A summary of the performance data for all of the schools the education management provider is managing at the time of the application or has managed previously, including documentation of academic achievement and school management success;

(II) An explanation of and evidence demonstrating the education management provider’s capacity for successful expansion while maintaining quality in the schools it is managing;

(III) An explanation of any existing or potential conflicts of interest between the governing board of the proposed charter school and the education management provider; and

(IV) A copy of the actual or proposed performance contract between the governing board for the proposed charter school and the education management provider that specifies, at a minimum, the following material terms:

(A) Performance evaluation measures;

(B) The methods of contract oversight and enforcement that the governing board will apply;

(C) The compensation structure and all fees that the proposed charter school will pay to the education management provider; and

(D) The conditions for contract renewal and termination.

(2) No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter contract is approved by both parties and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the chartering school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

**Source:** **L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 94:** (1)(l) added, p. 1379, § 3, effective May 25. **L. 96:** (1)(d) repealed and (1)(i.5) added, p. 753, §§ 3, 4, effective May 22. **L. 97:** (1)(e) amended, p. 586, § 15, effective April 30. **L. 99:** (1)(m) and (3) added, pp. 1255, 1256, §§ 2, 4, effective June 2. **L. 2004:** Entire section amended, p. 1575, § 5, effective June 3. **L. 2005:** (1)(k) amended, p. 1508, § 3, effective June 9. **L. 2009:** (1)(b), (1)(e), and (1)(f) amended, (SB 09-163), ch. 293, p. 1535, § 27, effective May 21. **L. 2012:** (1) R&RE, (SB 12-061), ch. 109, p. 372, § 1, effective April 13.



**Cross references:** For the legislative declaration contained in the 1999 act enacting subsections (1)(m) and (3), see section 1 of chapter 302, Session Laws of Colorado 1999.

#### ANNOTATION

**The governing policy provisions of a charter contract** are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

**Applied** in Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

**22-30.5-107. Charter application - process.** (1) (a) A charter applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the proposed charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) The local board of education shall receive and review all applications for charter schools. If the local board of education does not review a charter application, it shall be deemed to have denied the charter application. A charter applicant must file its application with the local board of education by a date determined by the local board of education to be eligible for consideration for the following school year. An application is considered filed when the school district administration receives the charter application from the charter applicant either in hard copy or electronically. The date determined by the local board of education for filing of applications shall not be any earlier than August 1 or any later than October 1. Prior to any change in the application deadline, the local board of education shall notify the department and each charter school applicant in the district of the proposed change by certified letter. The local board of education shall not charge any application fees.

(c) Within fifteen days after receiving a charter school application, the school district shall determine whether the application contains the minimum components specified in section 22-30.5-106 (1) and is therefore complete. If the application is not complete, the school district shall notify the charter applicant within the fifteen-day period and provide a list of the information required to complete the charter application. The charter applicant has fifteen days after the date it receives the notice to provide the required information to the local board of education for review. The local board of education is not required to take action on the charter application if the charter applicant does not provide the required information within the fifteen-day period. The school district may request additional information during the review period and provide reasonable time for the charter applicant to respond. The school district may, but is not required to, accept any additional information the charter applicant provides that the school district does not request. The district accountability committee shall review the complete charter school application at least fifteen days, if possible, before the local board of education takes action on the application.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to approve a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within ninety days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application, does not review a charter school application, or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(3.5) Nothing in this part 1 shall prohibit a school district from adopting one or more policies that encourage charter applicants to address specified school district needs.

(4) If a local board of education denies or does not review a charter school application, it shall state its reasons for the denial or refusal to review. Within fifteen days after denying or refusing to review a charter school application, the local board of education shall notify the department of the denial or refusal and the reasons therefor. If a local board of education approves a charter application, it shall send a copy of the approved charter application to the department within fifteen days after approving the charter application.

(5) A school district may unilaterally impose conditions on a charter applicant or on a charter school only through adoption of a resolution of the local board of education of the school district. If a local board adopts a resolution unilaterally imposing conditions on a charter applicant or on a charter school, the resolution shall, at a minimum, state the school district's reasons for imposing the conditions unilaterally, despite the objections of the charter applicant or the charter school. The charter applicant or charter school may appeal the decision of the local board of education to unilaterally impose the conditions by filing the notice of appeal with the state board within thirty days after adoption of the resolution, as provided in section 22-30.5-108 (2) (a).

**Source:** **L. 93:** Entire article added, p. 1055, § 1, effective June 3. **L. 96:** Entire section amended, p. 753, § 5, effective May 22. **L. 97:** (1) amended, p. 586, § 16, effective April 30. **L. 99:** (1.5) added and (2) amended, p. 1209, § 2, effective August 4. **L. 2002:** (1) amended, p. 1749, § 23, effective June 7; entire section amended, p. 187, § 1, effective July 1, 2003. **L. 2004:** Entire section amended, p. 1576, § 6, effective June 3. **L. 2012:** (1) and (2) amended, (SB 12-061), ch. 109, p. 375, § 3, effective April 13.

**Editor's note:** Amendments to subsection (1) by Senate Bill 02-051 and House Bill 02-1349 were harmonized.

## ANNOTATION

**Applied** in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

**22-30.5-107.5. Dispute resolution - governing policy provisions - appeal.** (1) Except as otherwise provided in section 22-30.5-108, any disputes that may arise between a charter school and its chartering school district concerning governing policy provisions of the school's charter contract shall be resolved pursuant to this section.

(2) (a) A charter school or its chartering school district may initiate a resolution to any dispute concerning a governing policy provision of the school's charter contract by providing reasonable written notice to the other party of an intent to invoke this section. Such notice shall include, at a minimum, a brief description of the matter in dispute and the scope of the disagreement between the parties.

(b) Within thirty days after receipt of the written notice described in paragraph (a) of this subsection (2), the charter school and the school district shall agree to use any form of alternative dispute resolution to resolve the dispute, including but not limited to any of the forms described in the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S.; except that any form chosen by the parties shall result in final written findings by a neutral third party within one hundred twenty days after receipt of such written notice.

(c) The neutral third party shall apportion all costs reasonably related to the mutually agreed upon dispute resolution process.

(3) (a) A charter school and its chartering school district may agree to be bound by the



written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section. In such case, such findings shall be final and not subject to appeal.

(b) If the parties do not agree to be bound by such written findings of the neutral third party, the parties may appeal such findings to the state board. A party who wishes to appeal such findings shall provide the state board and the other party with a notice of appeal within thirty days after the release of such findings, and the notice of appeal shall contain a brief description of the grounds for appeal. The state board may consider said written findings or other relevant materials in reaching its decision and may, on its own motion, conduct, after sufficient notice, a de novo review of and hearing on the underlying matter.

(4) The state board shall:

(a) Issue its decision on the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section within sixty days after receipt of the notice of appeal; or

(b) Make its own findings within sixty days after making its own motion for a de novo review and hearing described in paragraph (b) of subsection (3) of this section.

(5) If the state board, after motion by one of the parties and sufficient notice and hearing, finds that either of the parties to an alternative dispute resolution process held pursuant to this section has failed to participate in good faith in such process or has refused to comply with the decision reached after agreeing to be bound by the result of such process, the state board shall resolve the dispute in favor of the aggrieved party.

(6) Any decision by the state board pursuant to this section shall be final and not subject to appeal.

**Source:** L. 99: Entire section added, p. 1255, § 3, effective June 2. L. 2002: Entire section R&RE, p. 1001, § 1, effective June 1.

**Cross references:** For the legislative declaration contained in the 1999 act enacting this section, see section 1 of chapter 302, Session Laws of Colorado 1999.

### ANNOTATION

**Annotator's note.** The following annotations include a case decided under this section as it existed prior to its 2002 repeal and reenactment.

**By adding this section, the general assembly established the processes for settling governing policy contract disputes,** as well as explicitly establishing the situations in which the state board of education had appellate review. Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

**The enactment of this section served as a retroactive change to the Charter Schools Act.** Because the section authorizes an aggrieved party to seek appellate review from the state board of education, and because the state board's decision is not subject to review, plaintiff lacked standing to pursue its governing policy claims. Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

**Because charter schools and school districts fall within the province of the political subdivision doctrine,** the plaintiff charter school, as the subordinate agency, did not have standing to sue the defendant school district, a superior agency. The dispute must be resolved instead within the executive branch. Dolores Huerta Prep. High v. Colo. State Bd. of Educ., 215 P.3d 1229 (Colo. App. 2009).

**Governing policy provisions of a charter school contract are not subject to judicial review.** Plaintiff was dissatisfied with the provision of its charter contract that addressed long-term facility support through various funding sources, and the court found this to fall under the category of a governing policy, thus not subject to judicial review. Dolores Huerta Prep. High v. Colo. State Bd. of Educ., 215 P.3d 1229 (Colo. App. 2009).

**22-30.5-108. Appeal - standard of review - procedures.** (1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning the denial of a charter school application, the nonrenewal or revocation of a charter school's charter, or the unilateral imposition of conditions on a charter applicant or a charter school, in accordance with the provisions of this section. Any disputes arising with regard to governing policy provisions of a charter

school's charter contract shall be resolved as provided in section 22-30.5-107.5. A local board of education's refusal to review a charter application constitutes a denial of the charter application and is appealable as a denial pursuant to the provisions of this section.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning the denial of a charter application or the nonrenewal or revocation of a charter or the unilateral imposition of conditions on a charter applicant or a charter school, shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of a charter application or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, whichever is being appealed, specified by the local board of education. The notice shall include a brief statement of the reasons the appealing person contends the local board of education's denial of a charter application or nonrenewal or revocation of a charter, or imposition of conditions on a charter applicant or charter school was in error.

(2.5) If a district court dismisses a case for lack of jurisdiction and the case involves a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, the thirty-day period for filing a notice of appeal or of facilitation described in subsection (2) of this section shall be tolled until the date of dismissal by the court.

(3) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to deny a charter application or to refuse to renew or to revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to the charter applicant or the charter school, the appeal and review process shall be as follows:

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final decision. If the local board of education decides to approve the charter application or decides not to unilaterally impose the condition, the local board of education and the charter applicant shall complete the charter contract within ninety days following the remand of the state board's decision to the local board of education.

(c) Following the remand, if the local board of education's final decision is still to deny a charter application or to unilaterally impose the condition on a charter applicant or if the local board of education's final decision is still to refuse to renew or to revoke a charter or to unilaterally impose conditions unacceptable to the charter school, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application, or to renew or reinstate the charter or to approve or disapprove the conditions imposed on the charter applicant or the charter school. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial of a charter application or nonrenewal or revocation of a charter or unilateral imposition of conditions on a charter applicant or a charter school by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently



rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial of a charter application or nonrenewal or revocation of a charter and make a final decision as provided in paragraph (b) of subsection (3) of this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny a charter application, to refuse to renew or to revoke a charter, or to unilaterally impose conditions on a charter applicant or a charter school.

(4) (Deleted by amendment, L. 2004, p. 1578, § 7, effective June 3, 2004.)

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that approves its charter application and charter contract and be accountable to the local board of education pursuant to section 22-30.5-104 (2).

**Source:** L. 93: Entire article added, p. 1056, § 1, effective June 3. L. 94: (3)(a) and IP(4)(a)(I) amended, p. 1341, § 1, effective May 25. L. 96: (2), IP(3), and (3)(c) amended and (3.5) added, p. 754, § 6, effective May 22. L. 97: (3)(a), IP(4)(a)(I), and (5) amended, p. 586, § 17, effective April 30. L. 2002: (1), (2), IP(3), (3)(c), and (3)(d) amended and (2.5) added, p. 1002, § 2, effective June 1. L. 2004: Entire section amended, p. 1578, § 7, effective June 3.

#### ANNOTATION

Where the state board of education concludes that a charter school's remedy lay in district court, such conclusion does not confer jurisdiction on the courts or extend standing to plaintiffs when none otherwise existed. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd* in part and *rev'd* in part on other grounds, 32 P.3d 456 (Colo. 2001).

The state board is authorized to substitute its judgment for that of a local board under the "best interests" language of subsection (3)(d). *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

State board's authority is limited upon a second appeal. Where, on first appeal, the state board had approved a charter application in principle but directed the local board and the applicants to negotiate further on unresolved operational details, the state board had no authority to issue a similar, conditional approval on the second appeal pursuant to subsection (3)(d). *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd* in part and *rev'd* in part on other grounds, 984 P.2d 639 (Colo. 1999).

The plain language of this section authorizes the state board only to require approval of the charter application as submitted and not subsequent status reports. *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

If disputes arise from the implementation of the governing policy provisions of the charter contract, such disputes may eventually be appealed to the state board of education pursuant to this section, and any decision rendered by the state board is final and not subject to appeal. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Only issue on second appeal is whether the local board's denial of an application is contrary to the best interests of the pupils, school district, or community. The state board's purported issuance of a partial or conditional order to approve a pending application, which fell short of an unconditional finding on this issue, was held unenforceable and the case was remanded for further proceedings. *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd* in part and *rev'd* in part on other grounds, 984 P.2d 639 (Colo. 1999).

State board's final order on second appeal is not subject to judicial review under the State Administrative Procedure Act. *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd* in part and *rev'd* in part on other grounds, 984 P.2d 639 (Colo. 1999).

Applied in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd* in part and *rev'd* in part on other grounds, 32 P.3d 456 (Colo. 2001).

**22-30.5-109. Charter schools - reporting - publicizing - limits on enrollment - moratorium prohibited.** (1) Each local board of education that approves a charter application and enters into a charter contract with a charter school shall annually report to the department information that the department requests to evaluate the effectiveness of charter schools. The local boards of education shall provide the information on forms provided by the department. The state board shall adopt rules establishing the time lines and

procedures for reporting the information required in this subsection (1).

(2) (Deleted by amendment, L. 2004, p. 1580, § 8, effective June 3, 2004.)

(3) It is the intent of the general assembly that greater consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified on or before April 1, 1993, as an educational clinic pursuant to former article 27 of this title as it existed prior to August 7, 2006, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(6) A school district shall not discriminate against a charter school in publicizing the educational options available to students residing within the district through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter school pays for its share of such publicity at cost.

(7) A chartering authority may not restrict the number of pupils a charter school may enroll; except that a charter school and its chartering authority may negotiate and agree to limitations on the number of students the charter school may enroll as necessary to:

(a) Facilitate the academic success of students enrolled in the charter school;

(b) Facilitate the charter school's ability to achieve the other objectives specified in the charter contract; or

(c) Ensure that the charter school's student enrollment does not exceed the capacity of the charter school facility or site.

(8) The local board of education of a school district shall not impose a moratorium on the approval of charter applications for charter schools within the school district.

**Source:** L. 93: Entire article added, p. 1057, § 1, effective June 3. L. 96: (4) and (5) amended, p. 668, § 6, effective May 2; (2)(a) amended, p. 754, § 7, effective May 22. L. 98: (1) amended, p. 823, § 31, effective August 5. L. 99: (6) added, p. 1256, § 6, effective June 2. L. 2002: (7) added, p. 1750, § 24, effective June 7. L. 2003: (6) amended, p. 2139, § 42, effective May 22. L. 2004: Entire section amended, p. 1580, § 8, effective June 3. L. 2006: (4) and (6) amended, p. 605, § 19, effective August 7.

**Cross references:** For the legislative declaration contained in the 1999 act enacting subsection (6), see section 1 of chapter 302, Session Laws of Colorado 1999.

**22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation.** (1) (a) When a local board of education approves a new charter application, the charter is authorized for a period of at least four years. The local board of education and the charter school may renew the charter for successive periods as provided in this section.

(b) During the term of a charter, the school district shall annually review the charter school's performance. At a minimum, the review includes the charter school's progress in meeting the objectives identified in the plan the charter school is required to implement pursuant to section 22-11-210 and the results of the charter school's most recent annual financial audit. The school district shall provide to the charter school written feedback from the review and shall include the results of the charter school's annual review in the body of evidence that the local board of education takes into account in deciding whether to renew or revoke the charter and that supports the renegotiation of the charter contract.

(1.3) Each school district shall adopt and revise as necessary procedures and timelines for the charter-renewal process, which procedures and timelines are in conformance with the requirements of this part 1. Each school district shall ensure that each of the charter schools authorized by the district receives a copy of the district's charter renewal procedures and timelines and any revisions to the procedures and timelines.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the chartering



local board of education. The chartering local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or by a mutually agreed upon date.

(2) A charter school renewal application submitted to the chartering local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, targets for the measures used to determine the levels of attainment of the performance indicators, and other terms of the charter contract and the results achieved by the charter school's students on the assessments administered through the Colorado student assessment program;

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education; and

(c) Repealed.

(d) Any information or material resulting from the charter school's annual reviews as described in subsection (1) of this section.

(3) A charter may be revoked or not renewed by the chartering local board of education if it determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract;

(b) Failed to meet or make adequate progress toward achievement of the goals, objectives, content standards, pupil performance standards, targets for the measures used to determine the levels of attainment of the performance indicators, applicable federal requirements, or other terms identified in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not specifically exempted.

(3.5) If a charter school is required to implement a turnaround plan pursuant to section 22-11-210 (2) for a second consecutive school year, the charter school shall present to its authorizing local board of education, in addition to the turnaround plan, a summary of the changes made by the charter school to improve its performance, the progress made in implementing the changes, and evidence, as requested by the local board of education, that the charter school is making sufficient improvement to attain a higher accreditation category within two school years or sooner. If the local board of education finds that the charter school's evidence of improvement is not sufficient or if the charter school is required to implement a turnaround plan for a third consecutive school year, the local board of education may revoke the school's charter.

(4) (Deleted by amendment, L. 2004, p. 1582, 9, effective June 3, 2004.)

(4.5) (a) At least fifteen days prior to the date on which a local board of education will consider whether to revoke or renew a charter, the school district shall provide to the local board of education and the charter school a written recommendation, including the reasons supporting the recommendation, concerning whether to revoke or renew the charter.

(b) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) If a local board of education revokes or does not renew a charter, the charter school may appeal the decision pursuant to section 22-30.5-108.

(6) Each school district shall adopt procedures for closing a charter school following revocation or nonrenewal of the charter school's charter. At a minimum, the procedures shall ensure that:

(a) When practicable and in the best interest of the students of the charter school, the charter school continues to operate through the end of the school year. If the school district determines it is necessary to close the charter school prior to the end of the school year, the school district shall work with the charter school to determine an earlier closure date.

(b) The school district works with the parents of the students who are enrolled in the charter school when the charter is revoked or not renewed to ensure that the students are enrolled in schools that meet their educational needs; and

(c) The charter school meets its financial, legal, and reporting obligations during the period that the charter school is concluding operations.

(7) Notwithstanding any provision of this section to the contrary, on and after September 1, 2012, a local board of education shall not renew a charter that is held by a for-profit entity either solely or in cooperation with other entities.

**Source:** **L. 93:** Entire article added, p. 1058, § 1, effective June 3. **L. 96:** (4.5) added and (5) amended, p. 755, § 8, effective May 22. **L. 97:** (1) amended and (1.5) added, p. 400, § 3, effective August 6. **L. 2001:** (2) amended, p. 338, § 4, effective April 16. **L. 2004:** Entire section amended, p. 1582, § 9, effective June 3. **L. 2007:** (2)(c) repealed, p. 745, § 28, effective May 9. **L. 2009:** (2)(a) and (3)(b) amended, (SB 09-163), ch. 293, p. 1535, § 28, effective May 21. **L. 2012:** Entire section amended, (SB 12-061), ch. 109, p. 376, § 4, effective April 13; (7) added, (SB 12-067), ch. 131, p. 451, § 4, effective August 8.

### **22-30.5-110.3. Nonrenewal or revocation - qualified charter school - exceptions.**

(1) Notwithstanding the provisions of sections 22-30.5-108 and 22-30.5-110, the provisions of this section shall apply if:

(a) A chartering local board of education determines that the charter of a qualified charter school, as defined in section 22-30.5-408 (1) (c), will be revoked or will not be renewed; and

(b) The qualified charter school has financed capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., pursuant to section 22-30.5-407.

(2) (a) If a chartering local board of education makes a determination to revoke or not renew the charter of a qualified charter school and subsection (1) of this section applies, the chartering local board of education shall notify the state treasurer and the commissioner of education immediately upon such determination. Upon receipt of such notice, the commissioner shall suspend the revocation or nonrenewal of the charter until such time as the state treasurer, the commissioner, and the Colorado educational and cultural facilities authority determine, with the chartering local board of education and the qualified charter school, whether an alternative exists to such revocation or nonrenewal of the charter.

(b) A chartering local board of education shall not be required to suspend a revocation or nonrenewal of a charter pursuant to paragraph (a) of this subsection (2) for more than one hundred twenty days after the date that the commissioner of education and the state treasurer received notice of the determination to revoke or not renew the charter pursuant to paragraph (a) of this subsection (2) or sixty days after the action of the state board pursuant to section 22-30.5-108 (3) (a), whichever is later.

(3) The state treasurer, commissioner of education, chartering local board of education, charter school, and Colorado educational and cultural facilities authority may pursue the following:

(a) The conversion of the qualified charter school from a school of the chartering district to an institute charter school;

(b) The reorganization of the qualified charter school and application to the initial chartering local board of education or the state charter school institute for approval as a charter school with the condition that the newly approved charter school will assume the bond obligations of the former qualified charter school pursuant to section 22-30.5-407; or

(c) Any other alternative deemed feasible by the state treasurer, the commissioner of education, the Colorado educational and cultural facilities authority, the chartering local board of education, and the qualified charter school.

(4) Nothing in this section shall be construed to prevent the chartering local board of education from revoking or not renewing the charter of a qualified charter school pursuant to section 22-30.5-110.

**Source:** **L. 2011:** Entire section added, (SB 11-188), ch. 186, p. 714, § 6, effective July 1.



**22-30.5-110.5. Background investigation - charter school employees - information provided to department.** (1) A charter school shall conduct a background investigation of an applicant to whom an offer of employment is extended to determine whether the applicant is suitable to work in an environment with children.

(2) The background investigation of an applicant, at a minimum, shall include:

(a) An inquiry by the charter school to the department to determine whether the applicant:

(I) Has had his or her educator license or certification denied, suspended, revoked, or annulled in this state or another state for any reason, including but not limited to a conviction, a plea of not guilty, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children;

(II) Has been dismissed by, or has resigned from, a school district as a result of any allegation, including but not limited to unlawful sexual behavior, that was supported by a preponderance of the evidence according to information provided to the department pursuant to section 22-32-109.7 (3) or subsection (7) of this section and confirmed by the department pursuant to section 22-2-119 (1) (b);

(b) (I) A fingerprint-based criminal history record check as described in section 22-30.5-110.7.

(II) The criminal history record check shall be designed to determine, at a minimum, whether the applicant has been convicted of, pled nolo contendere or guilty to, or received a deferred sentence or deferred prosecution for:

(A) A felony; or

(B) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

(c) Inquiries to the applicant's previous employers to obtain information or recommendations that may be relevant to the applicant's fitness for employment.

(3) Upon request, the department shall provide the charter school with any information the department may have concerning a person who applies for employment with a charter school or a charter school employee.

(4) The charter school shall pay to the department the background investigation fee established pursuant to section 22-2-119 (5) for each applicant who does not hold an educator license issued pursuant to article 60.5 of this title and for whom the charter school requests a background investigation. The charter school may assess the amount of the fee to the applicant.

(5) (a) An applicant's previous employer that provides information to a charter school or makes a recommendation concerning the applicant, whether at the request of the charter school or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows the information is false or acts with reckless disregard concerning the veracity of the information; and

(II) The charter school acts upon the information to the detriment of:

(A) The applicant because the charter school refuses to employ the applicant based, in whole or in part, on negative information concerning the applicant later determined to be false; or

(B) The charter school because the charter school employs the applicant based, in whole or in part, on positive information concerning the applicant later determined to be false.

(b) A charter school that relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and the charter school knows the information is false or acts with reckless disregard concerning the veracity of the information.

(6) (a) Each charter school shall submit to the department the name, date of birth, and social security number of each person employed by the charter school. The department shall add the information submitted pursuant to this subsection (6) for charter school employees who do not hold an educator license to the database for nonlicensed school employees maintained by the department pursuant to section 22-32-109.8 (11). The department shall add the information submitted pursuant to this subsection (6) for licensed employees to the database maintained by the department for licensed educators.

(b) At the beginning of each semester, each charter school shall notify the department if a nonlicensed employee is no longer employed by the charter school. The department shall purge the employee's information from the database within twelve months after receiving the notice.

(7) (a) If an employee of a charter school is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, that is supported by a preponderance of the evidence, the governing board of the charter school shall notify the department and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The charter school shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.

(b) If a charter school learns from a source other than the department that a current or past employee of the charter school has been convicted of, pled guilty to, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the charter school shall notify the department.

(8) On or before August 30 each year, the department shall submit a list of all persons employed by each charter school in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee's name and date of birth.

(9) Any information received by a charter school pursuant to this section or section 22-30.5-110.7 shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. A person who releases information obtained pursuant to the provisions of this section or section 22-30.5-110.7 or who makes an unauthorized request for information from the charter school shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that a person who releases information received from the charter school concerning information contained in the records and reports of child abuse or neglect maintained by the department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source: L. 2008:** Entire section added, p. 1660, § 3, effective May 29.

**22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - definitions.** (1) A person applying for employment with a charter school to whom an offer of employment is extended shall submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency or an authorized employee of the charter school and notarized.

(2) On a form provided by the charter school, an applicant to whom an offer of employment is extended shall certify, under penalty of perjury, either:

(a) That he or she has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(b) That he or she has been convicted of committing a felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. The certification shall specify the felony or misdemeanor for which the applicant was convicted, the date of the conviction, and the court entering the judgment of conviction.

(3) In addition to any other requirements established by law, the submittal of fingerprints pursuant to subsection (1) of this section and of the form pursuant to subsection (2) of this section shall be a prerequisite to the employment of any person in a charter school. A charter school shall not employ a person who has not complied with the provisions of subsections (1) and (2) of this section.

(4) A charter school to which fingerprints are submitted pursuant to subsection (1) of this section shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(5) (a) A charter school may employ a person in the charter school prior to receiving the results of the person's fingerprint-based criminal history record check; except that:



(I) The charter school may terminate the employment of the person if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (2) of this section; and

(II) The charter school shall terminate the person's employment if the results disclose a conviction for an offense described in section 22-32-109.8 (6.5).

(b) The charter school shall notify the proper district attorney of inconsistent results as described in subparagraph (I) of paragraph (a) of this subsection (5) for purposes of action or possible prosecution.

(6) When a charter school finds good cause to believe that a person employed by the charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, the charter school shall require the person to submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency or an authorized employee of the charter school. The employee shall submit his or her fingerprints within twenty days after receipt of written notification from the charter school. The charter school shall forward the employee's fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(6.5) An employee or an applicant for employment with a charter school is disqualified from employment if the results of a fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in section 22-32-109.8 (6.5). Nothing in this section or in section 22-32-109.8 shall create for a person a property right in or entitlement to employment or continued employment with a charter school or impair a charter school's right to terminate employment for a nondiscriminatory reason.

(7) For purposes of this section, a person is deemed to have been convicted of committing a felony or misdemeanor if the person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act that, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a plea of guilty, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(b) "Position of employment" means any job or position in which a person may be engaged in the service of a charter school for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(9) The employing charter school shall be responsible for costs arising from a fingerprint-based criminal history record check performed by the Colorado bureau of investigation and the federal bureau of investigation pursuant to the provisions of this section. The charter school may collect the costs from the employee or the prospective employee.

**Source:** L. 2008: Entire section added, p. 1663, § 3, effective May 29. L. 2011: (5) amended and (6.5) added, (HB 11-1121), ch. 242, p. 1054, § 2, effective August 10.

**Cross references:** In 2011, subsection (5) was amended and subsection (6.5) was added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-30.5-111. Charter schools - employee options.** (1) During the first year that a teacher employed by a school district is employed by a charter school, such teacher shall be considered to be on a one-year leave of absence from the school district. Such leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one-year leave of absence shall be renewed for up to two additional one-year periods upon the mutual agreement of the teacher and the school district. At the end of three years, the relationship between the teacher and the school district shall be

determined by the school district and such district shall provide notice to the teacher of the relationship.

(2) The local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by the charter school who seek to return to employment with public schools in the school district.

(3) Employees of a charter school shall be members of the public employees' retirement association or the Denver public schools retirement system, whichever is applicable. The charter school and the teacher shall contribute the appropriate respective amounts as required by the funds of such association or system.

**Source: L. 93:** Entire article added, p. 1059, § 1, effective June 3.

**22-30.5-112. Charter schools - financing - definitions - guidelines.** (1) (a) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment, the on-line pupil enrollment, or the preschool program enrollment, whichever is applicable, of the school district that granted its charter. The school district that granted its charter shall report to the department the number of pupils included in the school district's pupil enrollment, the school district's on-line pupil enrollment, and the school district's preschool program enrollment that are actually enrolled in each charter school.

(b) The school district shall also identify each charter school that is a qualified charter school as defined in section 22-54-124 (1) (f.6), identify each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit, and provide an estimate of the number of pupils expected to be enrolled in each qualified charter school during the budget year following the budget year in which the district makes a report.

(2) (a) (I) As part of the charter school contract, the charter school and the school district shall agree on funding and any services to be provided by the school district to the charter school.

(II) For the 1999-2000 budget year, the charter school and the school district shall begin discussions on the contract using eighty percent of the district per pupil revenues.

(III) (A) For budget year 2000-01 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the chartering school district shall negotiate funding under the contract. The charter school shall receive one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school; except that the chartering school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school and up to five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(B) For budget years 2001-02 through 2010-11, the minimum amount of funding specified in sub-subparagraph (A) of this subparagraph (III) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by the school district as required by section 17 of article IX of the state constitution.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school, minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil plus eighty-five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.



(a.4) (I) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the charter school. Any difference, within the limitations of subparagraph (III) of paragraph (a) of this subsection (2) and paragraph (a.3) of this subsection (2), between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(II) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all the actual costs of district services the charter school chose at its discretion to purchase from the district calculated in accordance with paragraph (b) of this subsection (2). Any difference between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(III) If either party disputes an itemized accounting provided pursuant to subparagraphs (I) and (II) of this paragraph (a.4), any charges included in an accounting, or charges to either party, that party is entitled to request a third-party review at the requesting party's expense. The review shall be conducted by the department, and the department's determination shall be final.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing:

(A) Services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board; and

(B) Salaries and benefits for administrative job classifications listed under the headings of support services - business and support services - central in the school district chart of accounts as specified by rule of the state board.

(II) "District per pupil revenues" means the district's total program as defined in section 22-54-103 (6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103 (7) for said budget year.

(II.5) "District per pupil on-line funding" means a school district's on-line funding, as specified in section 22-54-104 (4.5), divided by the district's on-line pupil enrollment for any budget year.

(III) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(a.7) For the 2000-01 budget year through the 2008-09 budget year, each charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2) (b), multiplied by the number of students enrolled in the charter school who are not students enrolled in an on-line program or an on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to a fund created by the charter school for capital reserve purposes, as set forth in section 22-45-103 (1) (c) and (1) (e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the charter school for any other purpose. Any moneys remaining in the fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) in the 2009-10 budget year or any budget year thereafter.

(a.8) (I) For the 2000-01 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a.8) to the contrary, the school district shall calculate the per pupil cost of providing federally required

educational services after subtracting the amount received in federal and state moneys for providing said services.

(a.9) For budget year 2002-03 and budget years thereafter, and in accordance with section 22-30.5-406, the funding provided by a chartering school district to a charter school pursuant to this subsection (2) shall be reduced by the amount of any direct payments of principal and interest due on bonds issued on behalf of a charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction that were made by the state treasurer or the chartering school district on behalf of the charter school.

(b) The charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service pursuant to this paragraph (b) shall be determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying said amount by the number of students enrolled in the charter school.

(b.5) (I) The charter school and the school district shall negotiate prior to the beginning of each fiscal year for the payment to the school district of any direct costs incurred by the school district. If the charter school and the school district do not reach agreement regarding the payment of direct costs, the school district shall be barred from withholding from the charter school any moneys as reimbursement for direct costs. The school district shall provide an itemized accounting to each charter school for the direct costs incurred by the school district with the itemized accounting provided pursuant to paragraph (a.4) of this subsection (2).

(II) For purposes of this paragraph (b.5), "direct costs" means the direct costs incurred by a school district solely for the purpose of reviewing charter applications, negotiating the charter contract, and providing direct oversight to charter schools. "Direct costs" shall not include the school district's legal or other costs attributable to litigation or the resolution of a dispute with a charter school.

(c) (I) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(II) For budget year 2000-01 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than one hundred percent of the chartering school district's district per pupil revenues, minus up to five percent as provided in subparagraph (III) of paragraph (a) of this subsection (2), multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school chartered by a school district that enrolls five hundred or fewer students.

(III) If a charter school operates a full-day kindergarten program, for purposes of calculating the charter school's funding pursuant to this subsection (2), the number of pupils enrolled in the charter school shall include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(d) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(e) Fees collected from students enrolled at a charter school shall be retained by such charter school.

(3) (a) (I) For the 1999-2000 budget year, notwithstanding subsection (2) of this section, the proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

(II) For budget year 2000-01 and budget years thereafter, if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such



federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.

(III) For budget year 2000-01 and budget years thereafter, the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid; except that a school district that receives small attendance center aid pursuant to section 22-54-122 for a small attendance center that is a charter school shall forward the entire amount of such aid to the charter school for which it was received.

(a.5) Each charter school that serves students who may be eligible to receive services provided through federal aid programs shall comply with all federal reporting requirements to receive the federal aid.

(b) If a student with a disability attends a charter school, the school district of residence shall be responsible for paying any tuition charge for the excess costs incurred in educating the child in accordance with the provisions of section 22-20-109 (5).

(4) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the contract between the charter school and the local board of education.

(4.5) Except as provided in section 22-30.5-112.3 (2) (b), any moneys received by a charter school from any source and remaining in the charter school's accounts at the end of any budget year shall remain in the charter school's accounts for use by the charter school during subsequent budget years and shall not revert to the school district or to the state.

(5) Repealed. / (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(6) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(7) A charter school shall comply with all of the state financial and budget rules, regulations, and financial reporting requirements with which the chartering school district is required to comply, including but not limited to annual completion of a governmental audit that complies with the requirements of the department.

(8) (a) Notwithstanding any provision of this section to the contrary, a chartering school district, under the circumstances specified in the contract between the school district and the charter school pursuant to section 22-30.5-105 (2) (c) (IV), may withhold a portion of a charter school's monthly payment due pursuant to this section.

(b) The chartering school district may withhold a portion of the payment due to the charter school only until such time as the charter school complies with the financial reporting requirements.

(9) (a) If a charter school determines that its chartering school district has not forwarded to the charter school the amount due to the charter school in accordance with the terms of the charter contract and the provisions of this section, the charter school may seek a determination from the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. A charter school that chooses to request a determination pursuant to this subsection (9) of issues arising on or after July 1, 2004, shall submit the request within the next fiscal year following the fiscal year in which the chartering school district may have improperly withheld funding; except that, if the charter contract requires the charter school to complete any requirements prior to seeking a determination from the department pursuant to this subsection (9), the charter school shall submit the request no later than the end of the next fiscal year following the fiscal year in which the charter school completes said requirements.

(b) Upon receipt from a charter school of a request for a determination of whether the chartering school district has improperly withheld any portion of the amount due to the charter school, the state board shall direct the department to review the terms of the charter contract and the financial information of the charter school and the chartering school district and make a recommendation to the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. The department shall request from the chartering school district and the charter school all

information necessary to make the recommendation, including but not limited to audited financial data. The chartering school district and the charter school shall provide the requested information as soon as possible following the request, but in no event later than thirty days after completion of the annual financial audit. The department shall forward its recommendation to the state board within sixty days after receiving all of the requested information from the chartering school district and the charter school.

(c) At the next state board meeting following receipt of the recommendation of the department pursuant to paragraph (b) of this subsection (9), the state board shall issue its decision regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. If the state board finds that the chartering school district improperly withheld any portion of the amount due to the charter school, the chartering school district shall pay to the charter school, within thirty days after issuance of the decision, the amount improperly withheld. In addition, the chartering school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the state board finds that the chartering school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

(d) If the chartering school district fails within the thirty-day period to pay the full amount that was improperly withheld, the charter school may notify the department, and the department shall withhold from the chartering school district's state equalization payment the unpaid portion of the amount improperly withheld by the chartering school district from the charter school and pay the unpaid portion directly to the charter school.

(10) (a) If a charter school determines that a school district has not paid the tuition charge for the excess costs incurred in educating a child with a disability as required in section 22-20-109 (5), the charter school may seek a determination from the state board in accordance with the provisions of subsection (9) of this section.

(b) If the state board determines that the school district has improperly withheld moneys due to the charter school, the school district, within thirty days after the state board's determination, shall pay to the charter school the amount improperly withheld. In addition, the school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the school district fails, within the thirty-day period, to pay the full amount that was improperly withheld, the charter school shall notify the department, and the department shall withhold from the school district's state equalization payment the unpaid portion of the amount improperly withheld by the district and pay the unpaid portion directly to the charter school.

(c) If the state board finds that the school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

**Source:** **L. 93:** Entire article added, p. 1059, § 1, effective June 3. **L. 94:** (2)(a) amended, p. 812, § 25, effective April 27; (1) and (3) amended, p. 1379, § 4, effective May 25. **L. 96:** (5) amended, p. 1240, § 97, effective August 7. **L. 97:** (1) amended, p. 587, § 18, effective April 30. **L. 99:** (2)(a), (2)(b), (2)(c), and (3)(a) amended and (2)(a.3), (2)(a.5), (2)(a.7), (2)(a.8), and (2)(b.5) added, p. 172, § 1, effective March 30; (3)(a) R&RE and (4.5) added, p. 1257, §§ 8, 7, effective June 2. **L. 2001:** (1) and (2)(a)(III) amended and (2)(a.4) added, pp. 349, 339, 358, §§ 11, 2, 25, effective April 16; (2)(a)(III) amended, p. 337, § 2, effective April 16. **L. 2002:** (1), (2)(a)(III)(A), (2)(a.3), (2)(a.7), and (3)(a)(III) amended and (2)(a.5)(II.5), (2)(a.9), and (3)(a.5) added, pp. 1750, 1751, 1766, §§ 25, 26, 34, effective June 7. **L. 2003:** (4.5) amended, p. 517, § 7, effective March 5; (1), (2)(a)(III)(A), (2)(a.3), (2)(a.5)(I), and (2)(a.5)(II.5) amended, p. 2127, § 19, effective May 22. **L. 2004:** (2)(a)(III)(A), (2)(a.4)(III), (2)(c)(II), (2)(d), (5), and (6) amended, (5) repealed, and (7), (8), (9), and (10) added, pp. 1583, 1591, §§ 10, 25, effective June 3; (2)(a)(III)(A), (2)(b.5), and (5) amended, p. 1632, § 34, effective July 1. **L. 2006:** (2)(a.8) amended, p. 577, § 6, effective April 24; (1)(a) amended, p. 696, § 39, effective April 28; (1)(b) amended, p. 606, § 20, effective August 7. **L. 2007:** (2)(a.5)(II.5) and (2)(a.7)



amended, p. 1090, §§ 17, 19, effective July 1. **L. 2008:** (2)(a)(III)(A) amended, p. 1899, § 74, effective August 5. **L. 2009:** (2)(a.7) amended, (SB 09-256), ch. 294, p. 1554, § 11, effective May 21; (1)(a) amended, (SB 09-292), ch. 369, p. 1962, § 57, effective August 5. **L. 2010:** (2)(a)(II), (2)(a.5)(III), and (2)(c)(I) amended, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10. **L. 2012:** (2)(a.7) amended and (2)(c)(III) added, (HB 12-1240), ch. 258, pp. 1316, 1311, §§ 27, 10, effective June 4.

**Editor's note:** (1) Amendments to subsection (2)(a)(III) by Senate Bill 01-129 and House Bill 01-1232 were harmonized. Amendments to subsection (2)(a)(III)(A) by House Bill 04-1141 and House Bill 04-1362 were harmonized.

(2) Subsection (5) was amended in House Bill 04-1362, effective July 1, 2004. However, those amendments will not take effect due to the repeal of subsection (5) by House Bill 04-1141, effective June 3, 2004.

**Cross references:** For the legislative declaration contained in the 1996 act amending subsection (5), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 1999 act amending subsection (3)(a) and enacting subsection (4.5), see section 1 of chapter 302, Session Laws of Colorado 1999.

## ANNOTATION

**The waiver of a transfer policy or funding a transferred student's education in another school in the district are not permitted or contemplated services** within the meaning of subsection (2)(b) of this section or § 22-30.5-104 (7)(b). *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

**Applied** in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part* on other grounds, 32 P.3d 456 (Colo. 2001).

**22-30.5-112.1. Charter schools - definitions - exclusive jurisdiction districts - authorized on or after July 1, 2004 - financing.** (1) As used in this section, unless the context otherwise requires:

(a) "Adjusted district per pupil revenues" means the qualifying school district's per pupil funding plus the qualifying school district's at-risk per pupil funding.

(b) "At-risk funding" means the amount of funding determined in accordance with the formulas described in section 22-54-104 (4).

(c) "At-risk per pupil funding" means the amount of funding determined in accordance with the following formula:

(The qualifying school district's at-risk funding divided by the qualifying school district's funded pupil count) x (the district charter school's percentage of at-risk pupils divided by the qualifying school district's percentage of at-risk pupils)

(d) "At-risk pupils" shall have the same meaning as provided in section 22-54-103 (1.5).

(e) "Central administrative overhead costs" shall have the same meaning as provided in section 22-30.5-112 (2) (a.5) (I).

(f) "District charter school" means a charter school for which the charter application is approved on or after July 1, 2004, by a qualifying school district.

(g) "District funded pupil count" shall have the same meaning as provided in section 22-54-103 (7).

(h) "District per pupil funding" means a qualifying school district's per pupil funding as determined in accordance with the formula described in section 22-54-104 (3).

(i) "District per pupil on-line funding" means a school district's on-line funding, as specified in section 22-54-104 (4.5), divided by the district's on-line pupil enrollment for any budget year.

(j) "District per pupil revenues" means the qualifying school district's total program, as defined in section 22-54-103 (6), for any budget year divided by the qualifying school district's funded pupil count for said budget year.

(k) "On-line pupil enrollment" means:

(I) Repealed.

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district on-line school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title, by the district charter school.

(l) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(m) "Qualifying school district" means a school district:

(I) That has retained exclusive authority to authorize charter schools pursuant to the provisions of section 22-30.5-504; and

(II) In which more than forty percent of the pupil enrollment consists of at-risk pupils.

(2) Notwithstanding the provisions of section 22-30.5-112 (2) (a) to (2) (a.5), (2) (b), (2) (b.5), and (2) (c), the amount of funding to be received by a district charter school, the accounting of central administrative overhead costs between a district charter school and a qualifying school district, and the direct purchase of district services by a district charter school from a qualifying school district shall be determined pursuant to the provisions of this section.

(3) (a) For budget year 2004-05 and budget years thereafter, each district charter school and the qualifying school district that approved the charter shall negotiate funding under the charter contract. The district charter school shall receive one hundred percent of the adjusted district per pupil revenues for each pupil enrolled in the district charter school who is not an on-line pupil and one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school; except that the qualifying school district may choose to retain the sum of the actual amount of the district charter school's per pupil share of the central administrative overhead costs for services actually provided to the district charter school, up to five percent of the adjusted district per pupil revenues for each pupil who is not an on-line pupil enrolled in the district charter school and up to five percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school.

(b) Notwithstanding any provision of this subsection (3) to the contrary, if a qualifying school district enrolls five hundred or fewer students, the district charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the district charter school, minus the actual amount of the district charter school's per pupil share of the central administrative overhead costs incurred by the qualifying school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the district charter school who is not an on-line pupil plus eighty-five percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school.

(c) If a charter school operates a full-day kindergarten program, for purposes of calculating the charter school's funding pursuant to this subsection (3), the number of pupils enrolled in the charter school shall include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(4) Within ninety days after the end of each fiscal year, each qualifying school district shall provide to each district charter school authorized by the qualifying school district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the district charter school. Any difference, within the limitations specified in subsection (3) of this section, between the amount initially charged to the district charter school and the actual cost shall be reconciled and paid to the owed party.

(5) The district charter school, at its discretion, may contract with the qualifying school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a district charter school in purchasing any district service pursuant to this subsection (5) shall be



determined through an agreement between the district charter school and the qualifying school district using one of the following methods:

(a) By dividing the cost of providing the service for the entire qualifying school district, as specified in the qualifying school district's budget, by the number of students enrolled in the qualifying school district and multiplying said amount by the number of students enrolled in the district charter school;

(b) By determining the actual costs incurred by the qualifying school district in providing support services; or

(c) By negotiating a services agreement between the district charter school and the qualifying school district pursuant to which multiple services are provided for a fixed cost.

(6) Notwithstanding any other provision of this section to the contrary and for the purposes of this section only, a school district in which more than forty percent of the pupil enrollment consists of at-risk pupils at the time a charter school's application is first approved shall be deemed to have the same percentage of at-risk pupil enrollment for the term of the charter contract. For purposes of renewal of the charter contract, the percentage of at-risk pupils in the school district at the time the renewal application is submitted shall be the percentage used for purposes of determining whether the school district is a qualifying school district and subject to the provisions of this section.

**Source:** **L. 2006:** Entire section added, p. 574, § 5, effective April 24. **L. 2007:** (1)(i) and (1)(k) amended, pp. 1090, 1086, §§ 18, 8, effective July 1. **L. 2009:** (1)(k)(I) repealed, (SB 09-292), ch. 369, p. 1962, § 58, effective August 5. **L. 2012:** (1)(k)(II) amended, (HB 12-1090), ch. 44, p. 150, § 7, effective March 22; (1)(k)(II) amended and (3)(c) added, (HB 12-1240), ch. 258, pp. 1317, 1311, §§ 28, 11, effective June 4.

**Editor's note:** Amendments to subsection (1)(k)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.5-112.2. Charter schools - at-risk supplemental aid - definitions - legislative declaration.** (1) As used in this section, unless the context otherwise requires:

(a) "Adjusted district per pupil revenues" has the same meaning as defined in section 22-30.5-112.1 (1) (a).

(b) "ASCENT program" means the accelerating students through concurrent enrollment program created in section 22-35-108.

(c) "At-risk pupils" has the same meaning as defined in section 22-54-103 (1.5).

(d) "District per pupil revenues" has the same meaning as defined in section 22-30.5-112 (2) (a.5) (II).

(e) "Qualifying school district" has the same meaning as defined in section 22-30.5-112.1.

(2) (a) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate to the department of education for allocation to school districts the amount calculated for at-risk supplemental aid for those school districts and district charter schools described in paragraph (b) of this subsection (2). The at-risk supplemental aid is additional funding and does not supplant any other funding provided pursuant to this article.

(b) (I) Each qualifying school district shall receive at-risk supplemental aid if the percentage of at-risk pupils in a district charter school authorized by the qualifying school district prior to July 1, 2004, is less than the percentage of at-risk pupils in the qualifying school district. The amount of the school district's at-risk supplemental aid is equal to the difference between one hundred percent of district per pupil revenues and one hundred percent of adjusted district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program.

(II) Each district charter school in a qualifying school district that was initially authorized prior to July 1, 2004, shall receive at-risk supplemental aid if the percentage of at-risk students in the district charter school exceeds the percentage of at-risk pupils in the qualifying school district. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil

revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(III) Each district charter school in a school district that is not a qualifying district and whose percentage of at-risk pupils exceeds the percentage of at-risk pupils in the chartering school district shall receive at-risk supplemental aid. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(3) If the appropriation to the department of education is insufficient to fund one hundred percent of the at-risk supplemental aid calculated pursuant to paragraph (b) of subsection (2) of this section, the department of education shall reduce each school district's and each district charter school's at-risk supplemental aid proportionately.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 721, § 8, effective May 19.

### **22-30.5-112.3. Charter schools - additional aid from district.**

(1) (a) and (a.5) Repealed.

(a.7) (I) For the 2003-04 budget year and each budget year thereafter, a qualified charter school, as defined in section 22-54-124 (1) (f.6), shall receive state education fund moneys from the school district that granted its charter in an amount equal to the percentage of the district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state education fund moneys distributed to the district for the same budget year pursuant to section 22-54-124 (3).

(II) As used in this paragraph (a.7), "pupils" means pupils, other than pupils enrolled in an on-line program or on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), who are enrolled in a charter school.

(b) Funding received pursuant to paragraph (a), (a.5), or (a.7) of this subsection (1) shall be in addition to any funding provided pursuant to section 22-30.5-112.

(c) A district shall provide funding to each qualified charter school, as defined in section 22-54-124 (1) (f.6), by making a monthly payment to the qualified charter school as soon as possible after the district receives a monthly payment of state education fund moneys pursuant to section 22-54-124 (4).

(2) (a) A charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1) (a).

(b) Notwithstanding the provisions of section 22-30.5-112 (4.5), any moneys received by a charter school pursuant to subsection (1) of this section for the 2001-02 budget year that are not expended by January 31, 2003, shall be transferred back to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2001:** Entire section added, p. 348, § 10, effective April 16. **L. 2002:** (1)(a) and (1)(c) amended, p. 1751, § 27, effective June 7. **L. 2003:** (1)(a)(I), (1)(c), and (2) amended and (1)(a.5) added, p. 517, § 8, effective March 5; (1)(a)(I), (1)(b), and (1)(c) amended and (1)(a.7) added, pp. 2133, 2134, §§ 29, 30, effective May 22. **L. 2006:** (1)(a) and (1)(a.5) repealed and (1)(c) amended, p. 606, §§ 21, 22, effective August 7. **L. 2007:** (1)(a.7)(II) amended, p. 1090, § 20, effective July 1. **L. 2010:** (1)(c) amended, (HB 10-1013), ch. 399, p. 1896, § 1, effective June 10. **L. 2012:** (1)(a.7)(II) amended, (HB 12-1240), ch. 258, p. 1317, § 29, effective June 4.

**22-30.5-112.5. Charter schools - transportation plans.** If a charter school's charter or contract includes provision of transportation services by the school district, the charter



school and the school district shall collaborate in developing a transportation plan to use school district equipment to transport students enrolled in the charter school to and from the charter school and their homes and to and from the charter school and any extracurricular activities. The transportation plan may include, but need not be limited to, development of bus routes and plans for sharing the use of school district equipment for the benefit of students enrolled in charter schools of the school district and students enrolled in other schools of the school district.

**Source: L. 2001:** Entire section added, p. 368, § 37, effective April 16.

**22-30.5-113. State board - department of education - duties - charter schools - evaluation - report.** (1) Beginning in the 2004-05 budget year, and at least every three years thereafter, the department shall prepare a report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools and of institute charter schools authorized pursuant to part 5 of this article, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program described in this article.

(2) The state board shall compile evaluations of charter schools received from local boards of education and evaluations of institute charter schools prepared by the state charter school institute created in section 22-30.5-503. The state board shall review information regarding the statutes, regulations, and policies from which charter schools were released pursuant to section 22-30.5-105 and from which institute charter schools were released pursuant to section 22-30.5-508 to determine if the releases assisted or impeded the charter schools or the institute charter schools in meeting their stated goals and objectives.

(3) In preparing the report required by this section, the state board shall compare the performance of charter school pupils and institute charter school pupils with the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

**Source: L. 93:** Entire article added, p. 1061, § 1, effective June 3. **L. 98:** (2) repealed, p. 1076, § 6, effective June 1. **L. 2004:** Entire section R&RE, p. 1591, § 26, effective June 3; (1) and (3) amended, p. 1633, § 35, effective July 1.

#### **22-30.5-114. Repeal of part. (Repealed)**

**Source: L. 93:** Entire article added, p. 1061, § 1, effective June 3. **L. 96:** Entire section amended, p. 668, § 7, effective May 2. **L. 98:** Entire section repealed, p. 164, § 1, effective April 6.

**22-30.5-115. Construction of article - severability.** If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**Source: L. 96:** Entire section added, p. 755, § 9, effective May 22.

**22-30.5-116. Charter schools - school bullying policies required.** (1) On or before October 1, 2011, each charter school shall adopt and implement a policy concerning bullying prevention and education. Each charter school's policy, at a minimum, shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(2) For the purposes of this section, “bullying” shall have the same meaning as set forth in section 22-32-109.1 (1) (b).

(3) Each charter school is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students’ impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); includes character building; and includes the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

**Source: L. 2011:** Entire section added, (HB 11-1254), ch. 173, p. 653, § 3, effective May 13. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 747, § 35, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (2), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, (HB 12-1345), Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council’s web site.

### **22-30.5-117. Basic skills placement or assessment tests - intervention plans.**

(1) Each charter school that includes any of grades nine through twelve may administer to students enrolled in those grades the basic skills placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113, C.R.S. The charter school may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate moneys to each charter school to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(2) If a charter school chooses to administer the basic skills placement or assessment tests, each student’s individual career and academic plan shall include the scores achieved by the student on the basic skills placement or assessment tests and, based on an analysis of the scores, the student’s level of postsecondary and workforce readiness at the time he or she takes the tests. If a student’s scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student’s parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If appropriate, the charter school, the student, and the student’s parent or legal guardian may choose to enroll the student in one or more basic skills courses at an institution of higher education through the “Concurrent Enrollment Programs Act”, article 35 of this title, if the student is enrolled in twelfth grade.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 726, § 14, effective May 19.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012.



## PART 2

## CHARTER SCHOOL DISTRICTS

**22-30.5-201 to 22-30.5-209. (Repealed)**

**Editor's note:** (1) This part 2 was added in 1996. For amendments to this part 2 prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-30.5-209 provided for the repeal of this part 2, effective July 1, 2003. (See L. 96, p. 667.)

## PART 3

## INDEPENDENT CHARTER SCHOOLS

**22-30.5-301. Legislative declaration.** (1) The general assembly hereby finds that section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools. The state therefore has an obligation to ensure that every student has a chance to attend a school that will provide an opportunity for a quality education. If a school is not providing a thorough and adequate education, as determined by the annual performance review conducted by the department pursuant to section 22-11-210, the state has an obligation to the students enrolled in that school to make changes to ensure that they have an opportunity to receive a quality education comparable to students in other public schools in the state.

(2) Therefore, the general assembly finds it necessary to establish a system for independent charter schools to operate within local school buildings when school districts have failed to provide adequate educational opportunities.

**Source:** L. 2000: Entire part added, p. 351, § 8, effective April 10. L. 2009: (1) amended, (SB 09-163), ch. 293, p. 1536, § 29, effective May 21.

**22-30.5-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Applicant" means the person or group of persons submitting a proposal for an independent charter to operate an independent charter school pursuant to the provisions of this part 3. An "applicant" may include, but shall not be limited to, an individual, a group of individuals, a nonprofit or for-profit company, an existing public school, a school district, or an institution of higher education.

(2) "Commissioner" means the commissioner of education appointed pursuant to section 22-2-110.

(3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4) "Independent charter" means the agreement between a local board of education and an independent charter school governing the existence and operation of the independent charter school.

(5) "Independent charter proposal" means a proposal for the operation of an independent charter school submitted in response to a request for proposals pursuant to the provisions of this part 3.

(6) "Independent charter school" means a charter school approved pursuant to this part 3 that is a public school of a school district.

(7) "Local board of education" means the board of education of the school district in which the independent charter school is or is proposed to be located.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** L. 2000: Entire part added, p. 351, § 8, effective April 10.

**22-30.5-303. Independent charter schools - request for proposals - response contents.** (1) Whenever the state board determines that it is necessary to recommend conversion of a public school to an independent charter school to a local board of education pursuant to the provisions of section 22-11-210 (5), the state board shall issue a request for proposals pursuant to subsection (2) of this section and supervise the appointment of a review committee pursuant to section 22-30.5-304.

(2) (a) If an independent charter school is to be organized, the state board, on or before January 15 of the year in which the independent charter school is to open, shall cause to be issued a request for proposals. The request for proposals shall solicit proposals from interested parties, including but not limited to individuals, persons, nonprofit or for-profit companies, existing public schools or school districts, and institutions of higher education, for the operation of an independent charter school within a building that currently houses a public school of a school district. Responses to the request for proposals shall be due no later than the date specified by the state board pursuant to rules adopted by the state board in accordance with paragraph (b) of this subsection (2). The state board shall issue the request for proposals without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(b) The state board shall adopt rules specifying a schedule for receipt of the responses to the request for proposals pursuant to paragraph (a) of this subsection (2), the formation of a review committee and receipt of the recommendations of said committee pursuant to section 22-30.5-304, and the selection of an applicant and notification to the local board of education pursuant to section 22-30.5-305. Said schedule shall ensure the completion of negotiations on the independent charter no later than May 30 of the year in which the independent charter school is to open. The rules shall also specify the information that an independent charter proposal shall include in order to be eligible for consideration. Such information shall include, but need not be limited to, the following:

(I) Demonstrable evidence that the applicant for the independent charter has prior experience in improving the academic performance of students;

(II) The goals, objectives, and student performance standards to be achieved by the independent charter school, including but not limited to the measures for the performance indicators specified in section 22-11-204;

(III) A description of the independent charter school's educational program, student performance standards, annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204, and curriculum, which shall meet or exceed the state model content standards adopted pursuant to part 4 or part 10 of article 7 of this title and shall be designed to enable each student to achieve such standards and targets;

(IV) A description of the independent charter school's plan for evaluating student performance, the types of assessments that shall be used to measure student progress toward achievement of the school's student performance standards and the targets for the measures used to determine the levels of attainment of the performance indicators, including but not limited to the statewide assessments administered under the Colorado student assessment program pursuant to section 22-7-409, the timeline for achievement of the school's student performance standards and the targets, and the procedures for taking corrective action in the event that student performance at the independent charter school fails to meet such standards and targets;

(V) Evidence that the applicant is economically sound, including balance sheets and operating statements for recent years of operation when appropriate, a proposed budget for the term of the independent charter, and a description of the manner in which an annual audit of the financial and administrative operations of the independent charter school is to be conducted;

(VI) A list of the rules and statutory requirements for which the independent charter school is requesting a waiver and an explanation of the manner in which the independent charter school shall comply with the intent of any rule or statutory requirement that is waived;

(VII) A description of the governance and operation of the independent charter school;



(VIII) An explanation of the relationship that will exist between the independent charter school and its employees;

(IX) The employment policies of the independent charter school;

(X) How the independent charter school will handle legal liability between the school and the school district and any applicable insurance coverage;

(XI) A description of how the independent charter school plans to meet the transportation needs of its students and, if the independent charter school plans to provide transportation for its students, a plan for addressing the transportation needs of low-income students;

(XII) A description of the independent charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions, which shall include offering enrollment to students already enrolled in the school and students who would be assigned to the school under school district policy.

(c) If the commissioner finds that the information in any independent charter proposal is incomplete, the commissioner shall request the information necessary to complete the minimum requirements for the proposal.

**Source: L. 2000:** Entire part added, p. 352, § 8, effective April 10. **L. 2001:** (2)(a) and IP(2)(b) amended, p. 357, § 21, effective April 16. **L. 2003:** (2)(a) and IP(2)(b) amended, p. 730, § 3, effective March 20. **L. 2009:** (1), (2)(b)(II), (2)(b)(III), and (2)(b)(IV) amended, (SB 09-163), ch. 293, p. 1536, § 30, effective May 21.

**22-30.5-304. Review committee - membership - recommendations.** (1) Whenever an independent charter school is to be organized pursuant to this part 3, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), the commissioner shall cause a review committee to be formed. The review committee shall consist of:

(a) The commissioner or a designee of the commissioner, who shall chair the review committee but shall be a nonvoting member of the committee;

(b) A member of the board of education of the school district in which the school is geographically located who shall be the member elected from the director district in which the school is geographically located, if members of the board are elected from director districts, or the member who resides closest to the school, if members are not elected from director districts;

(c) (I) A licensed professional employed at the school who is elected by a vote of all licensed professionals who provide instruction at the school or have an office in the school.

(II) The election required by this paragraph (c) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b).

(d) (I) Two parents of students enrolled in the school who are members of the school accountability committee and are elected by a vote of the members of the school accountability committee.

(II) The election required by this paragraph (d) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b).

(e) (I) A principal of a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.

(II) In appointing a principal pursuant to this paragraph (e), the governor shall appoint a principal of a public school that received the highest possible accreditation rating pursuant to the accreditation policy implemented pursuant to section 22-11-307 by the public school's local board of education or by the state charter school institute, whichever is applicable, for the immediately preceding school year.

(f) (I) A teacher in a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.

(II) In appointing a teacher pursuant to this paragraph (f), the governor shall appoint a teacher from a public school that received the highest possible accreditation rating pursuant to the accreditation policy implemented pursuant to section 22-11-307 by the public school's local board of education or by the state charter school institute, whichever is applicable; and

(g) A business representative, appointed by the governor, who resides in the neighborhood of the school.

(2) The committee shall meet by call of the chair of the review committee as needed to review the proposals received in response to the request for proposals issued pursuant to section 22-30.5-303. The committee shall evaluate the proposals and, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), shall forward to the state board all proposals and its recommendations on each proposal. The committee may make recommendations on applicants without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

**Source: L. 2000:** Entire part added, p. 353, § 8, effective April 10. **L. 2001:** IP(1), (1)(c)(II), (1)(d)(II), and (2) amended, p. 357, § 22, effective April 16; (1)(e)(II) and (1)(f)(II) amended, p. 1499, § 24, effective June 8. **L. 2009:** (1)(d)(I), (1)(e), and (1)(f) amended, (SB 09-163), ch. 293, p. 1537, § 31, effective May 21; (1)(d)(I) amended, (SB 09-090), ch. 291, p. 1443, § 15, effective August 5.

**22-30.5-305. Independent charter schools - selection.** (1) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), the state board shall select an applicant to recommend to the local board of education. The state board may select the applicant without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(2) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2) (b), the commissioner shall forward to the local board of education a copy of the selected applicant's response to the request for proposals.

(3) The commissioner or the commissioner's designee shall assist the selected applicant in negotiating an independent charter with the local board of education pursuant to section 22-30.5-306.

**Source: L. 2000:** Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 358, § 23, effective April 16.

**22-30.5-306. Independent charter schools - charter - term.** (1) The response to the request for proposals forwarded by the commissioner pursuant to section 22-30.5-305 (2) shall constitute the application for a charter pursuant to section 22-30.5-106. Notwithstanding the time limit established in section 22-30.5-107 (1), the local board of education shall consider the application for the upcoming school year.

(2) With the assistance from the commissioner or the commissioner's designee, the selected applicant and the local board of education shall negotiate the terms of the independent charter, which may be different from or in addition to the terms of the response to the request for proposals; except that:

(a) The independent charter school shall be entitled to use the school building in which the public school that is subject to conversion was operated. The independent charter school and the local board of education shall negotiate an amount of rent to be paid, which shall be not more than twelve dollars per year, and all other costs for the operation and maintenance of the building and related facilities.

(b) The term of the independent charter school's charter shall be four years.

(3) (a) On or before May 30 of the year in which the independent charter school is to open, all negotiations between the selected applicant and the local board of education shall be concluded and the local board of education shall accept the application following a public hearing held upon public notice.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), if, during the year prior to the year in which the independent charter school is to open, the school is



required to implement a priority improvement plan, an improvement plan, or a performance plan pursuant to section 22-11-405, 22-11-404, or 22-11-403, respectively, the local board of education and the applicant may jointly agree to allow the school to remain under the administration of the local board of education.

(4) Except as specifically provided in this part 3, an independent charter school shall be entitled to all of the rights granted by and subject to the obligations imposed by section 22-30.5-104.

(5) (a) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1538, § 32, effective May 21, 2009.)

(b) Repealed.

**Source: L. 2000:** Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (3)(a) amended, p. 358, § 24, effective April 16; (2)(a), (3)(b), and (5) amended, p. 1499, § 25, effective June 8. **L. 2002:** (5)(b) repealed, p. 1019, § 29, effective June 1. **L. 2003:** (3)(a) amended, p. 730, § 4, effective March 20. **L. 2009:** (2)(a), (3)(b), and (5)(a) amended, (SB 09-163), ch. 293, p. 1538, § 32, effective May 21.

### **22-30.5-307. Independent charter schools - expiration - renewal - conversion.**

(1) If an independent charter school is required pursuant to section 22-11-210 to implement a turnaround plan during the third year of the school's independent charter, the state board shall issue a new request for proposals pursuant to section 22-30.5-303 (2), and a new independent charter school application process shall commence.

(2) If an independent charter school is required to implement a priority improvement plan, improvement plan, or performance plan pursuant to section 22-11-405, 22-11-404, or 22-11-403, respectively, during the third year of the school's independent charter, the parents and legal guardians of the students enrolled at the independent charter school shall decide by majority vote whether, at the expiration of the independent charter school's charter, the school shall apply for a renewal of the independent charter or shall seek to become a regular school of the school district in which the independent charter school is located.

(3) The independent charter school shall arrange for an election to decide which of the options specified in subsection (2) of this section the school shall pursue. The election shall be conducted during the month of September of the fourth school year of the independent charter. All parents and legal guardians of students enrolled in the independent charter school on the date of the election and for at least thirty days prior to the election shall be eligible to vote in the election conducted pursuant to this subsection (3).

(4) If a majority of the parents and legal guardians vote in favor of renewing the independent charter application, the renewal process shall be governed by section 22-30.5-110. If a majority of the parents and legal guardians vote in favor of becoming a regular school of the school district, the independent charter school's charter shall not be renewed, and the operation of the school shall return to the local board of education.

**Source: L. 2000:** Entire part added, p. 356, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 1500, § 26, effective June 8. **L. 2009:** (1) and (2) amended, (SB 09-163), ch. 293, p. 1538, § 33, effective May 21.

**22-30.5-308. Independent charter schools - employee options - financing options - guidelines.** (1) The provisions of section 22-30.5-111 shall apply to employees of an independent charter school.

(2) The provisions of section 22-30.5-112 shall govern the financing of independent charter schools.

**Source: L. 2000:** Entire part added, p. 357, § 8, effective April 10.

## PART 4

## CHARTER SCHOOL CAPITAL FACILITIES FINANCING ACT

**22-30.5-401. Short title.** This part 4 shall be known and may be cited as the “Charter School Facilities Financing Act”.

**Source: L. 2002:** Entire part added, p. 1753, § 31, effective June 7.

**22-30.5-402. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The “Charter Schools Act”, part 1 of this article, was enacted by the general assembly without providing a method for funding the capital construction needs of charter schools;

(b) Since the enactment of the “Charter Schools Act”, the general assembly has enacted legislation requiring a portion of the moneys in the state education fund to be distributed to charter schools for use in funding capital construction, but such moneys are not sufficient to fully meet the capital construction needs of charter schools;

(c) Pursuant to Senate Bill 01-237, enacted at the first regular session of the sixty-third general assembly, the general assembly declared its intent to establish a method for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts and encouraged representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons to meet and develop a comprehensive legislative proposal for funding the capital construction needs of charter schools for consideration by the sixty-third general assembly at the 2002 regular session.

(2) The general assembly further finds and declares that this part 4 is the product of legislative examination and modification of a comprehensive legislative proposal that resulted from meetings of representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons and represents a comprehensive legislative proposal for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts.

**Source: L. 2002:** Entire part added, p. 1753, § 31, effective June 7.

**22-30.5-403. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) “Board of education” or “board” means a school district board of education.

(2) “Budget year” means the period beginning on July 1 of each year and ending on the following June 30 for which a budget for a district is adopted.

(3) “Charter school” means a charter school as described in section 22-30.5-104, and also includes a nonprofit corporation exempt from taxation under section 501 (c) (3) of the federal “Internal Revenue Code of 1986”, as amended, that owns a facility used for occupancy by pupils enrolled or to be enrolled in a charter school on behalf of a charter school and that was created for the sole purpose of holding title to such facility.

(4) “Charter school capital construction” or “capital construction” means constructing, demolishing, remodeling, financing, or refinancing the acquisition of land, buildings, or facilities used for occupancy by pupils enrolled in or to be enrolled in a charter school or an institute charter school. The term also includes actions taken to achieve the purposes set forth in section 22-42-102 (2) (a) (I) to (2) (a) (V), (2) (a) (VII), and (2) (a) (VIII).

(5) “Charter school per pupil facilities aid program moneys” means state education fund moneys to be distributed to charter schools and institute charter schools for capital construction pursuant to section 22-54-124.

(5.5) “Institute charter school” means a charter school authorized by the state charter school institute pursuant to part 5 of this article, and also includes a nonprofit corporation



exempt from taxation under section 501 (c) (3) of the federal “Internal Revenue Code of 1986”, as amended, that owns, on behalf of an institute charter school, a facility used for occupancy by pupils enrolled or to be enrolled in the institute charter school, which nonprofit corporation was created for the sole purpose of holding title to the facility.

(6) “School district” or “district” means a school district organized and existing pursuant to law; except that the term does not include a junior college district.

(7) “Special mill levy” means a mill levy authorized by section 22-30.5-405.

**Source: L. 2002:** Entire part added, p. 1754, § 31, effective June 7. **L. 2009:** (4) and (5) amended and (5.5) added, (SB 09-089), ch. 440, p. 2439, § 6, effective June 4; (4) amended, (SB 09-176), ch. 247, p. 1113, § 1, effective August 5.

**Editor’s note:** Amendments to subsection (4) by Senate Bill 09-176 and Senate Bill 09-089 were harmonized.

**22-30.5-404. Needs-based inclusion of charter schools in district bond elections - eligibility - allocation of bond revenues.** (1) (a) In enacting this section, it is the intent of the general assembly to respect the principle of school district local control and to encourage school districts and charter schools to work together to ensure that the capital construction needs of charter schools can be met. Accordingly, nothing in this section shall be construed to limit in any way the existing ability of any school district to include a charter school in any local bond elections or to otherwise assist a charter school in financing its capital construction needs in any legal manner mutually agreed upon by the school district and the charter school.

(b) A school district shall allow for representation by charter schools on the school district’s long-range planning committee and any committee established by the school district to assess and prioritize the district’s capital construction needs and shall notify charter schools of the committee’s meeting schedule. Charter schools shall cooperate in determining the person or persons who will represent the interests of charter schools on the committee.

(c) Each school district that is considering submitting any question of contracting bonded indebtedness to the eligible electors of the district at an upcoming election shall invite each charter school chartered by the district to participate in discussions regarding the possible submission of such a question at the earliest possible time but no later than June 1 of the applicable election year, and each school district is encouraged to voluntarily include funding for the capital construction needs of charter schools in the district’s questions of contracting bonded indebtedness without requiring a charter school to comply with the capital construction plan submission process set forth in subsection (3) of this section.

(2) A charter school that has capital construction needs may seek to obtain moneys to fund such capital construction needs by requesting that the board of education of its chartering school district:

(a) Include the charter school’s capital construction needs as part of a ballot question for approval of bonded indebtedness to be submitted by the district to the voters of the district; or

(b) Submit a ballot question for approval of a special mill levy to the voters of the district pursuant to section 22-30.5-405.

(3) A charter school that seeks to have its capital construction needs included as part of a ballot question to be submitted by the board of education of its chartering school district to the voters of the district or that seeks to obtain funding for its capital construction needs through the imposition of a special mill levy pursuant to section 22-30.5-405 shall submit a capital construction plan to the board of education of its chartering school district. The plan shall include:

(a) A statement of reasons why the capital construction to be financed by bonded indebtedness or a special mill levy is necessary;

(b) A description of the capital construction to be financed by bonded indebtedness or revenues from a special mill levy;

(c) A description of the architectural, functional, and construction standards that meet applicable state building code requirements and are to be applied to each facility that is the subject of the capital construction project;

(d) An estimate of the total cost of completing the capital construction to be financed by bonded indebtedness or a special mill levy and, if any moneys other than proceeds of bonded indebtedness or a special mill levy and interest earned on such proceeds are to be used to finance the capital construction, a breakdown of the moneys that will be used to finance the capital construction;

(e) An estimate of the amount of time needed to complete the capital construction;

(f) A statement addressing whether construction and renovation, payment of overrun costs, and other capital construction project issues are to be managed by the charter school or the district, with costs for management to be negotiated by the charter school and the district;

(g) A statement of reasons why revenue sources other than bonded indebtedness or a special mill levy are inadequate to fully finance the capital construction; and

(h) A statement of the charter school's preferred means of obtaining moneys.

(4) (a) (I) The board of education of a school district shall review a capital construction plan submitted by a charter school pursuant to subsection (3) of this section and determine the priority of the charter school capital construction need in relation to the capital construction needs of other schools in the district. If the charter school's capital construction plan remedies shortcomings in the charter school's facilities identified in the financial assistance priority assessment of public school facilities created pursuant to section 22-43.7-108, or, when the assessment created pursuant to section 22-43.7-108 is no longer valid, in another assessment using similar criteria for all schools in the district, the board of education shall prioritize a charter school's capital construction needs in the school district's long-range plan and include those needs in the current ballot question in the upcoming election if the charter school's facility needs receive a higher priority assessment than the other schools in the district.

(II) Notwithstanding the provisions of this subsection (4) concerning the prioritization of a charter school's capital construction plan and inclusion in a district ballot question for approval of bonded indebtedness, the board of education of a school district and a charter school may agree to an alternative financial plan that addresses a charter school's facilities needs, including retiring financial obligations or bonds previously issued for the benefit of the charter school.

(III) (A) Nothing in this subsection (4) shall require a school district to prioritize the capital construction plan of a charter school that is on probation with the district or that has been authorized within the previous five years.

(B) The board of education of a school district may require a charter school to certify that school construction to be financed with bond proceeds in accordance with this section will remediate a shortcoming in the charter school's facilities identified pursuant to section 22-43.7-108, and that any construction will conform to any construction guidelines established pursuant to 22-43.7-107.

(C) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), the board of education of a school district and a charter school may agree to reserve or escrow funds for the benefit of the charter school.

(IV) The board of education shall notify the charter school in writing whether the school district has prioritized the charter school's capital construction needs for inclusion in the ballot question at the upcoming election no later than sixty days prior to the date by which the school district is required to certify the ballot question to the county clerk and recorder.

(b) If the board has prioritized the charter school capital construction needs pursuant to paragraph (a) of this subsection (4) for inclusion in the ballot question at the upcoming election, the board shall include the charter school's capital construction in the same ballot question being submitted by the district for approval of bonded indebtedness in accordance with subsection (5) of this section.

(c) If the board has not prioritized the charter school's capital construction needs for inclusion in the ballot question at the upcoming election, the board shall provide the charter



school with a written statement specifying the reasons for excluding the needs, and the charter school shall have an opportunity to address any issues raised by the board.

(5) When a district includes a charter school's capital construction in a district ballot question seeking approval of bonded indebtedness:

(a) (Deleted by amendment, L. 2009, (SB 09-176), ch. 247, p. 1113, § 2, effective August 5, 2009.)

(b) The board and the charter school shall agree to the process by which the bond proceeds and investment and interest earnings on such proceeds shall be distributed to the charter school prior to submitting the ballot question to the voters of the school district;

(c) The investment and interest earnings on bond proceeds shall be distributed on a pro rata basis to the participating charter school after management fees have been collected; and

(d) The costs of submitting the ballot question shall be borne by both the district and the charter school in proportion to their respective portions of the total bond proceeds to be received unless the board and the charter school agree to a different cost-sharing arrangement.

(5.5) If a charter school requests that a school district submit a ballot question for approval of a special mill levy to the voters of the district pursuant to section 22-30.5-405, the charter school shall agree to pay all costs of submitting the ballot question. Notwithstanding this requirement, if the board of the district submits a separate special mill levy ballot question on the same ballot as a ballot question for approval of bonded indebtedness, the costs of submitting the special mill levy ballot question shall be borne as agreed upon by the school district and the charter school.

(6) (a) Notwithstanding any other provision of this section, no bonds shall be issued for the purpose of financing charter school capital construction unless the charter school that is to receive bond proceeds and the district have entered into a contract specifying that, if the charter school's charter is revoked or not renewed, the charter school becomes insolvent and can no longer operate as a charter school, or the charter school otherwise ceases to operate, following payment of all other debts secured by the capital construction, the ownership of any capital construction financed by the bond proceeds shall automatically revert to the school district.

(b) The charter school shall not encumber any capital construction financed by bond revenues with any additional debt without the express approval of the school district. If the school district denies approval, the school district shall provide written reasons for such denial.

**Source: L. 2002:** Entire part added, p. 1754, § 31, effective June 7. **L. 2009:** (1), (4), (5), and (6) amended and (5.5) added, (SB 09-176), ch. 247, p. 1113, § 2, effective August 5.

**22-30.5-405. Mill levy for charter school capital construction.** (1) With the agreement of all charter schools that will receive the revenues generated by a special mill levy, the board of education of any school district shall, at any time at which a ballot issue arising under section 20 of article X of the state constitution may be decided, submit to the eligible electors of the district the question of whether to impose a mill levy of a stated amount and for a stated duration for the purpose of financing capital construction for one or more charter schools chartered by the district. When a mill levy for more than one year has been approved, the board shall, without calling an election, decrease the amount or duration of the mill levy as necessary to avoid excessive collections as each capital construction project financed by the mill levy is completed or the financing for such capital construction has been paid by the taxpayers of such school district. If the board is required to submit the ballot question for a mill levy pursuant to section 22-30.5-404 (4), the board shall consult with all affected charter schools that will receive the revenues generated by the special mill levy before determining the amount and duration of the special mill levy. The board of education of any school district has the discretion to combine the ballot question for a mill levy with any other tax question that the school district is submitting to the eligible electors of the district or to submit the ballot question as a separate question.

(2) Any election called pursuant to subsection (1) of this section shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The costs of the election shall be borne by each charter school that is to receive revenues generated by the mill levy in proportion to the amount of revenues it is to receive unless other cost-sharing arrangements are agreed to by the charter schools and, if the school district submitting the ballot question agrees to bear any of the costs of the election and is not prohibited from bearing such costs by section 22-30.5-404 (4) (b), the district.

(3) If the majority of votes cast at an election held pursuant to this section are in favor of the question, the mill levy of the district for charter school capital construction shall be as so approved by the eligible electors of the district and taxes shall be levied as so approved.

(4) Notwithstanding the provisions of section 22-30.5-404 (4) and any other provisions of this section, no mill levy shall be imposed pursuant to this section to benefit a charter school unless the charter school and the district have entered into a contract specifying to whom the ownership of any capital construction financed by the mill levy shall revert if the charter school loses its charter, fails to pay for the capital construction to be financed by revenues from the mill levy, or becomes insolvent and can no longer operate as a charter school.

(5) (Deleted by amendment, L. 2009, (SB 09-176), ch. 247, p. 1117, § 3, effective August 5, 2009.)

**Source: L. 2002:** Entire part added, p. 1757, § 31, effective June 7. **L. 2009:** (1) and (5) amended, (SB 09-176), ch. 247, p. 1117, § 3, effective August 5.

**22-30.5-406. Direct payment of charter school bonds by the state treasurer and school districts.** (1) (a) For the purpose of enhancing the ability of a charter school or an institute charter school to obtain favorable financing terms on bonds issued on behalf of the charter school or institute charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction, a charter school that is entitled to receive moneys from the state public school fund pursuant to part 1 of this article, or an institute charter school that is entitled to receive moneys from the state public school fund pursuant to part 5 of this article, may request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the charter school or institute charter school. The charter school or institute charter school shall specify the amount of each payment to be made.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if the state treasurer concludes that the amount of moneys from the state public school fund that a charter school or an institute charter school will receive pursuant to part 1 or part 5 of this article for any given budget year will be less than the amount of the payments specified by the charter school or institute charter school pursuant to paragraph (a) of this subsection (1) that will be due during the budget year, the state treasurer shall not agree to make direct payments on behalf of the charter school or institute charter school.

(c) (I) In the case of a charter school authorized by a school district board of education, the state treasurer shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the charter school from the payments to the chartering district of the state share of the district's total program made pursuant to article 54 of this title. The state treasurer shall notify the chief financial officers of the chartering district and the charter school of any amount of moneys withheld and the chartering district shall reduce the amount of funding it provides to the charter school by said amount. Any administrative costs withheld by the state treasurer pursuant to this subparagraph (I) shall be credited to the charter school financing administrative cash fund, which fund is hereby created. Moneys in the fund shall be continuously appropriated to the state treasurer for the direct and indirect costs of the administration of this section. Moneys in the charter school financing administrative cash fund shall remain in the fund and shall not revert to the general fund at the end of any fiscal year.



(II) In the case of an institute charter school, the state treasurer shall withhold the amount of any direct payments made on behalf of an institute charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the institute charter school from the payments to the state charter school institute made by the department of education pursuant to article 54 of this title. The state treasurer shall notify the department of education, the state charter school institute, and the chief financial officer of the institute charter school of any amount of moneys withheld. Any administrative costs withheld by the state treasurer pursuant to this subparagraph (II) shall be credited to the charter school financing administrative cash fund created pursuant to subparagraph (I) of this paragraph (c).

(d) The state treasurer shall establish the procedures necessary to implement this subsection (1) and may promulgate rules for that purpose. Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(e) This subsection (1) shall not be construed to require the state to continue the payment of state assistance to any school district or to the state charter school institute or to limit or prohibit the state from repealing or amending any law relating to the amount of state assistance to school districts or the state charter school institute or the manner or timing of the payment of such assistance. This subsection (1) shall not be construed to create a debt of the state or any state financial obligation whatsoever with respect to any bonds issued on behalf of a charter school or an institute charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction within the meaning of any state constitutional provision or to create any liability except to the extent provided in this subsection (1).

(2) (a) If the state treasurer does not agree to make direct payments of principal and interest on bonds on behalf of a charter school or an institute charter school pursuant to subsection (1) of this section because the charter school or institute charter school is not entitled to receive moneys from the state public school fund pursuant to part 1 or part 5 of this article or because the state treasurer has concluded that the amount of moneys from the state public school fund that the charter school or institute charter school will receive pursuant to part 1 or part 5 of this article for any given budget year will be less than the amount of the direct payment specified by the charter school or institute charter school that will be due during the budget year, the charter school may request that its chartering district, or the institute charter school may request that the state charter school institute, make direct payments of principal and interest on the bonds on behalf of the charter school or the institute charter school. The charter school or the institute charter school shall specify the amount of each payment to be made.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the board of education of a chartering district concludes that the total amount of moneys that a charter school will receive for any given budget year from the district pursuant to the operating contract between the district and the charter school will be less than the amount of the payments specified by the charter school pursuant to paragraph (a) of this subsection (2) that will be due during the budget year, the chartering district shall not agree to make direct payments on behalf of the charter school.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the governing board of the state charter school institute concludes that the total amount of moneys that an institute charter school will receive for any given budget year from the state charter school institute pursuant to the charter contract between the state charter school institute and the institute charter school will be less than the amount of the payments specified by the institute charter school pursuant to paragraph (a) of this subsection (2) that will be due during the budget year, the governing board shall not agree to make direct payments on behalf of the institute charter school.

(c) (I) A chartering district shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the chartering district and the charter school from the funding provided by the district to the charter school pursuant to part 1 of this article.

(II) The state charter school institute shall withhold the amount of any direct payments made on behalf of an institute charter school plus administrative costs associated with the

making of direct payments in an amount agreed upon by the state charter school institute and the institute charter school from the funding provided by the institute to the institute charter school pursuant to part 5 of this article.

(d) This subsection (2) shall not be construed to create a debt of any chartering district or the state charter school institute or any district or institute obligation whatsoever with respect to any lease agreement or installment purchase agreement entered into by a charter school or institute charter school within the meaning of any state constitutional provision or to create any liability except to the extent provided in this subsection (2).

(3) In accordance with section 11 of article II of the state constitution, the state hereby covenants with the purchasers of any outstanding bonds issued on behalf of a charter school or an institute charter school by a governmental entity in reliance upon this section that it will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section. However, nothing in this subsection (3) shall be deemed or construed to require the state to continue the payment of state assistance received by charter schools or institute charter schools or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance received by charter schools or institute charter schools or the manner of payment or timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

**Source:** L. 2002: Entire part added, p. 1758, § 31, effective June 7. L. 2003: (3) added, p. 1798, § 1, effective May 21. L. 2004: (1)(c) amended, p. 1634, § 36, effective July 1. L. 2009: Entire section amended, (SB 09-089), ch. 440, p. 2440, § 7, effective June 4.

**22-30.5-407. State charter school debt reserve fund - creation - use of fund moneys - legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The state charter school debt reserve fund created by this section is intended to enhance the ability of any qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., to obtain such financing on favorable terms by providing a source of moneys that can be used to make bond payments if the qualified charter school fails to make such payments;

(b) It is appropriate for state education fund moneys to be appropriated to the state charter school debt reserve fund and it is also appropriate for those qualified charter schools that receive more favorable financing terms that result in interest rate savings due to the existence of and reliance upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to such bonds to pay a portion of their resulting savings to the state charter school debt reserve fund and for all charter schools to bear the risk of having charter school per pupil facilities aid program moneys withheld to replenish the state charter school debt reserve fund in the event that moneys from the state charter school debt reserve fund are expended to make bond payments.

(2) (a) There is hereby created in the state treasury the state charter school debt reserve fund. The fund shall consist of the following moneys:

(I) One million dollars that are hereby appropriated from the state education fund to the state charter school debt reserve fund on July 1, 2002;

(II) Moneys credited to the state charter school interest savings account of the fund pursuant to subsection (3) of this section;

(III) Moneys transferred from the state education fund to the state charter school debt reserve fund pursuant to paragraph (d) of subsection (4) of this section; and

(IV) Moneys credited to the fund by the state treasurer pursuant to section 22-30.5-408 (2) (c) (II).

(b) There is hereby created within the state charter school debt reserve fund the state charter school interest savings account. The account shall consist of moneys credited to the



account by the state treasurer pursuant to subsection (3) of this section and any interest and income derived from the deposit and investment of moneys in the account.

(c) All interest and income derived from the deposit and investment of moneys in the state charter school debt reserve fund shall be credited to the state education fund; except that all interest and income derived from the deposit and investment of moneys in the state charter school interest savings account shall be credited to the account in accordance with paragraph (b) of this subsection (2). At the end of any fiscal year, all unexpended and unencumbered moneys in the state charter school debt reserve fund and the account shall remain in the fund and the account respectively.

(d) All moneys credited to the state charter school debt reserve fund or expended from the fund, other than moneys credited to or expended from the state charter school interest savings account, are moneys originally credited to the state education fund and are therefore, in accordance with section 17 (3) of article IX of the state constitution and section 22-55-103 (5), exempt from:

(I) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(II) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution.

(3) (a) A qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., shall pay to the state treasurer, on an annual basis, commencing and calculated on the date of issuance of the bonds and on each one-year anniversary of the issuance of the bonds thereafter while the bonds remain outstanding, an amount equal to ten basis points of the principal amount of the bonds outstanding as of each calculation date, and such amount shall be deemed to be the amount of any interest rate savings resulting from more favorable financing terms attributable to the reliance upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to such bonds. Each annual payment of ten basis points shall be prorated and payable in equal installments among the debt service payments required of the qualified charter school, with respect to the qualified charter school bonds issued for its benefit, during the twelve months following the annual computation date. The state treasurer shall credit any payment received pursuant to this paragraph (a) to the state charter school interest savings account.

(b) The state treasurer may require each qualified charter school that makes required payments to the state treasurer pursuant to paragraph (a) of this subsection (3) to pay a fee to the state treasurer to defray any direct and indirect administrative costs incurred by the state treasurer in executing duties required by this section. The state treasurer shall deposit any fees received into the state charter school interest savings account of the state charter school debt reserve fund.

(4) (a) Moneys in the state charter school debt reserve fund are hereby continuously appropriated to the state treasurer, who shall expend such moneys solely for the purpose of paying principal and interest on bonds issued on behalf of a qualified charter school by the Colorado educational and cultural facilities authority and only if:

(I) The state treasurer has been notified and has confirmed, in accordance with paragraph (b) of this subsection (4), that the qualified charter school has expended all moneys in its own debt service reserve fund or account that has been funded with proceeds derived from the issuance of the bonds and is unable to make bond payments; and

(II) The qualified charter school has made payments to the state treasurer as required by subsection (3) of this section.

(a.5) Notwithstanding the provisions of paragraph (a) of this subsection (4), fees deposited into the state charter school interest savings account of the state charter school debt reserve fund pursuant to paragraph (b) of subsection (3) of this section may be expended by the state treasurer for the purpose of defraying any direct and indirect administrative costs incurred by the state treasurer in executing duties required by this section.

(b) Whenever the trustee responsible for making payments to the holders of any qualified charter school bonds, as defined in section 22-30.5-408 (1) (d), issued on behalf

of a qualified charter school by the Colorado educational and cultural facilities authority has not received payment of principal or interest on the bonds on the tenth business day immediately prior to the date on which such payment is due and the debt service reserve fund for the qualified charter school has been depleted, the trustee shall so notify the state treasurer and the qualified charter school by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the qualified charter school and determine whether the qualified charter school will make the payment by the date on which it is due and, if the state treasurer confirms that the qualified charter school will not make the payment, the state treasurer shall make the payment.

(c) The state treasurer shall expend all moneys in the state charter school interest savings account before expending any other moneys in the state charter school debt reserve fund. If a qualified charter school defaults on a payment with respect to outstanding qualified charter school bonds, as defined in section 22-30.5-408 (1) (d), and the amounts of such payment defaults exceed the amounts available in the state charter school interest savings account and the state charter school debt reserve fund, moneys from the account and the fund shall be allocated pro rata among the qualified charter school bonds that will have a default in the payment of principal or interest based on the ratio that the payment default on each series of such bonds bears to the total payment defaults on all series of such qualified charter school bonds.

(d) If the state treasurer expends moneys from the portion of the state charter school debt reserve fund that is not the state charter school interest savings account or if the state treasurer expends moneys from the state charter school interest savings account for purposes other than the payment of the administrative costs of the state treasurer, the state treasurer shall withhold charter school per pupil facilities aid program moneys to the extent necessary to restore that portion of the state charter school debt reserve fund, by the transfer of all withheld amounts from the state education fund to that portion of the state charter school debt reserve fund, to a one million dollar balance and to the extent necessary to restore the state charter school interest savings account, by the transfer of all withheld amounts from the state education fund to the state charter school interest savings account, to the balance prior to expenditure of moneys from the account, in accordance with the following requirements:

(I) Each qualified charter school that has had bonds issued on its behalf by the Colorado educational and cultural facilities authority that have relied upon the state charter school debt reserve fund and the provisions of section 22-30.5-408, shall have its payments reduced by the same percentage and by a maximum of fifty percent.

(II) If, in any given fiscal year, the state treasurer determines that after withholding the maximum amount of charter school per pupil facilities aid program moneys that may be withheld pursuant to subparagraph (I) of this paragraph (d) the portion of the state charter school debt reserve fund that is not the state charter school interest savings account will not be restored to a one million dollar balance or the state charter school interest savings account will not be restored to the balance in the account prior to the state treasurer's expenditure of moneys from the account, each charter school that is not relying upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to bonds issued on its behalf by the Colorado educational and cultural facilities authority shall have its payment reduced by the same percentage and by a maximum of ten percent.

(5) This section shall not be construed to create any state debt, to require the state to make any bond payments on behalf of any qualified charter school from any source of state moneys other than the state charter school debt reserve fund, or to require the state to fully pay off any outstanding bonds of a qualified charter school that cannot make scheduled bond payments.

(6) For purposes of this section, "qualified charter school" means a qualified charter school as defined in section 22-30.5-408 (1) (c).

(7) A qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., shall request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the



qualified charter school in accordance with section 22-30.5-406 (1). If the state treasurer does not agree to make direct payments and the qualified charter school is a district charter school, the qualified charter school shall request that its chartering district make direct payments in accordance with section 22-30.5-406 (2). If the state treasurer does not agree to make direct payments and the qualified charter school is an institute charter school, the qualified charter school shall request that the state charter school institute make direct payments of principal and interest on the bonds on behalf of the institute charter school.

(8) This section shall only apply to bonds issued by the Colorado educational and cultural facilities authority in reliance upon the provisions of section 22-30.5-408 (2).

(9) This section is in addition to, and not in limitation of, the powers granted to the Colorado educational and cultural facilities authority pursuant to article 15 of title 23, C.R.S., to finance the costs of facilities of charter schools.

(10) In accordance with section 11 of article II of the state constitution, the state hereby covenants with the purchasers of any outstanding bonds issued in reliance upon the existence of the state charter school interest savings account that the state will not repeal, revoke, or rescind the provisions of this part 4 concerning the account or modify or rescind the same so as to limit or impair the rights and remedies granted by this section to the purchasers of such bonds and that any moneys in the account shall not revert to the general fund.

**Source: L. 2002:** Entire part added, p. 1760, § 31, effective June 7. **L. 2003:** Entire section amended, p. 1798, § 2, effective May 21. **L. 2004:** (7) amended, p. 1634, § 37, effective July 1. **L. 2006:** (4)(b), (4)(c), and (6) amended, p. 1493, § 25, effective June 1. **L. 2011:** (2)(a)(IV) added and IP(4)(d) and (4)(d)(II) amended, (SB 11-188), ch. 186, p. 712, §§ 1, 2, effective July 1.

**22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions.**

(1) As used in this section:

(a) “Charter school debt service reserve fund” means a reasonably required debt service reserve fund or account that has been funded with proceeds derived from the issuance of qualified charter school bonds or other moneys of the qualified charter school.

(b) “Investment grade” means debt obligations that are rated in one of the four highest investment rating categories by one or more nationally recognized rating agencies.

(b.5) “Maximum principal outstanding” means the aggregate outstanding principal amount of bonds for which moneys may be appropriated pursuant to paragraph (a) of subsection (2) of this section.

(c) “Qualified charter school” means a charter school that is described in section 22-30.5-104 or an institute charter school as that term is defined in section 22-30.5-502 that has a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency at the time of issuance of any qualified charter school bonds on behalf of the charter school by the Colorado educational and cultural facilities authority pursuant to the “Colorado Educational and Cultural Facilities Authority Act”, article 15 of title 23, C.R.S., and that has been certified as a qualified charter school by the state treasurer.

(d) “Qualified charter school bonds” means bonds that are issued by the Colorado educational and cultural facilities authority for the purpose of financing a facility to be used for occupancy by pupils enrolled in a qualified charter school and are secured by the state charter school debt reserve fund created by section 22-30.5-407 (2) and the provisions of this section.

(e) “Qualified charter school debt service reserve fund requirement” means the level of funding required for a qualified charter school debt service reserve fund as specified in the trust indenture or resolution pursuant to which qualified charter school bonds have been issued, which level of funding shall be no less than the maximum annual principal and interest requirement for the allocable portion of the qualified charter school bonds issued for the benefit of the qualified charter school; except that an amount equal to the qualified charter school debt service reserve fund may be subtracted from the final principal payment for the allocable portion of the qualified charter school bonds issued for the benefit of the

qualified charter school when determining the maximum annual principal and interest requirement amount.

(f) "Rating agency" means any nationally recognized statistical rating organization as defined under rule 2a-7 of the "Securities Exchange Act of 1934", as amended, 17 CFR 270.2a-7 (a) (17).

(1.5) (a) The Colorado educational and cultural facilities authority shall develop and publicly disclose the application requirements for the qualified charter school, the application and processing timeline, and all issuer fees and expenses that will apply to the transaction.

(b) The Colorado educational and cultural facilities authority shall not charge a qualified charter school for which it issues bonds pursuant to section 22-30.5-407 an annual fee after the issuance of the bonds occurs; except that this paragraph (b) shall not be construed to prohibit the authority from charging a qualified charter school for fees and expenses incurred in the enforcement of covenants or remedies.

(2) (a) If the Colorado educational and cultural facilities authority has issued qualified charter school bonds on behalf of any qualified charter school that fails immediately to restore its qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement, the board of directors of the authority shall submit to the governor a certificate certifying any amount of moneys required to restore the qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement. The governor shall submit a request for appropriations in an amount sufficient to restore any or all qualified charter school debt reserve funds to their respective qualified charter school debt service reserve fund requirements and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate outstanding principal amount of bonds for which moneys may be appropriated for said purpose shall not exceed four hundred million dollars.

(b) Any moneys appropriated for the purpose of restoring any qualified charter school debt service reserve fund to its qualified charter school debt service reserve fund requirement shall be deposited into the applicable qualified charter school debt service reserve fund.

(c) (I) Upon the expenditure of moneys from the state charter school debt reserve fund or the state charter school interest savings account of the fund by the state treasurer, the state treasurer may file a lien on behalf of the state on the property securing the bonds for which the qualified charter school debt reserve fund is expended in an amount equal to the amount of moneys expended from the state charter school debt reserve fund or the state charter school interest savings account; except that such lien shall not be on a parity with or superior to any lien then secured by the property, including any lien securing such qualified charter school bonds.

(II) Any net proceeds from the sale of property securing the bonds for which the qualified charter school debt reserve fund is established shall be used to reimburse the state treasurer for any costs incurred in connection with the sale of such property. The state treasurer shall credit any additional net proceeds from the sale of such property to the state charter school debt reserve fund to restore the fund to a balance of one million dollars. The state treasurer shall credit any remaining net proceeds from the sale of such property to the state charter school interest savings account in the state charter school debt reserve fund.

(d) Upon the expenditure of moneys from the state charter school debt reserve fund or the state charter school interest savings account of the fund by the state treasurer, a qualified charter school shall provide the state treasurer with at least the following information:

(I) A copy of any official statement or other offering document for the issuance or incurrence of the financial obligation of the qualified charter school;

(II) A copy of any filings or correspondence with the federal internal revenue service with respect to the issuance or incurrence, including, if applicable, a copy of each form 8038 or form 8038G;

(III) A copy of the continuing disclosure undertaking; and

(IV) Any other information that is described in the state public financing policy promulgated pursuant to section 24-36-121 (5), C.R.S., related to the issuance or incurrence.



(2.7) A qualified charter school that has financed capital construction with qualified charter school bonds shall confirm a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency on its outstanding qualified charter school bonds at the time of the issuance of any new charter school bonds.

(3) This section shall not be construed to create any debt of the state or any state financial obligation whatsoever within the meaning of any state constitutional provision or to create any state liability whatsoever.

(4) The general assembly hereby finds and declares that its intent in enacting this section is to support charter schools and charter school capital construction by helping qualified charter schools that choose to have the Colorado educational and cultural facilities authority issue qualified charter school bonds on their behalf obtain more favorable financing terms for the bonds.

**Source: L. 2002:** Entire part added, p. 1763, § 31, effective June 7. **L. 2003:** (1)(b), (1)(c), (1)(d), (1)(e), and (2)(a) amended and (1)(c.5) and (4) added, pp. 1803, 1804, §§ 3, 4, effective May 21. **L. 2004:** (1)(b) amended, p. 1635, § 38, effective July 1. **L. 2006:** (2)(a) amended, p. 590, § 1, effective April 24; (1) amended, p. 1494, § 26, effective June 1. **L. 2011:** (1)(b.5), (1.5), (2)(c), and (2.7) added, (SB 11-188), ch. 186, pp. 713, 714, §§ 3, 5, 4, effective July 1. **L. 2012:** (2)(d) added, (SB 12-150), ch. 196, p. 786, § 3, effective May 24.

**Editor's note:** Subsection (4) was originally enacted as subsection (3) in House Bill 03-1021, but has been renumbered on revision for ease of location.

**22-30.5-409. Annual reports on bonds issued on behalf of charter schools - review by state auditor.** (1) Prior to January 30, 2003, and prior to January 30 of each year thereafter, the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., shall submit a report to the state auditor that includes information concerning the issuance of qualified charter school bonds, as defined in section 22-30.5-408 (1) (d), that have resulted in charter schools obtaining more favorable financing terms by reliance on the existence of the state charter school debt reserve fund created in section 22-30.5-407 (2) (a) and the potential replenishment of the state charter school debt reserve fund pursuant to section 22-30.5-408 (2) (a). Such report shall include, but need not be limited to:

(a) The total amount of such qualified charter school bonds issued during the most recently completed calendar year;

(b) The charter schools on whose behalf such qualified charter school bonds were issued;

(c) An itemization of the charter school facilities for which such qualified charter school bonds were issued, the total cost of each such charter school facility, and the percentage of the total cost of each such facility to be paid from the proceeds obtained from the issuance of such qualified charter school bonds;

(d) The investment ratings of such qualified charter school bonds;

(e) The total amount of net and gross proceeds obtained from the issuance of such qualified charter school bonds during the most recently completed calendar year;

(f) The total amount of such outstanding qualified charter school bonds;

(g) The total amount of annual installments of principal and interest on such qualified charter school bonds that were scheduled to be paid during the most recently completed calendar year, the total amount of such annual installments actually paid during the most recently completed calendar year, and the total amount of such annual installments scheduled to be paid during the current calendar year and future calendar years;

(h) The total amount, if any, of moneys expended from each charter school's own debt service reserve fund or account during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds; and

(i) The total amount, if any, of moneys expended from the state charter school debt reserve fund during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds.

(2) No later than March 1, 2002, and no later than March 1 each year thereafter, the state auditor shall examine the report submitted in accordance with subsection (1) of this section and, upon completion of such review, shall report any findings regarding said submitted report to the education committees of the senate and the house of representatives, the legislative audit committee, the capital development committee, the joint budget committee, and the department of education.

**Source: L. 2002:** Entire part added, p. 1764, § 31, effective June 7. **L. 2003:** IP(1) and (1)(i) amended, p. 1804, § 5, effective May 21. **L. 2006:** IP(1) amended, p. 1495, § 27, effective June 1.

## PART 5

### INSTITUTE CHARTER SCHOOLS

**22-30.5-501. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) There is a growing demand for more charter schools in the state;

(b) There is an underserved population of at-risk students in the state, for whom innovative educational models are needed.

(2) The intent of the general assembly in establishing the state charter school institute pursuant to this part 5 is to:

(a) Provide an alternative mode of authorizing charter schools as a means to assist school districts in utilizing best practices for chartering schools and to approve and oversee charter schools in school districts not desiring to do so themselves; and

(b) Preserve the authority of a school district to authorize charter schools, at the school district's option.

**Source: L. 2004:** Entire part added, p. 1594, § 1, effective July 1.

**22-30.5-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "At-risk student" means a student:

(a) Who is eligible to receive free or reduced-cost lunch pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; or

(b) Who has performed at the proficiency level of "unsatisfactory" or "partially proficient" on a statewide assessment.

(2) "Board of cooperative services" means a board of cooperative services as defined in section 22-5-103 (2).

(2.5) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1) (b).

(3) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4.5) "Education management provider" means a nonprofit, not-for-profit, or for-profit entity that contracts with an institute charter school to provide, manage, or oversee all or substantially all of the educational services provided by the institute charter school.

(5) "Institute board" means the governing board of the state charter school institute that is appointed pursuant to section 22-30.5-505 (2).

(6) "Institute charter school" means a charter school authorized pursuant to this part 5.

(7) "Local board of education" or "local board" means a school district board of education.

(8) "Moratorium" means a school district's official policy of refusing to authorize charter schools and an ongoing pattern or practice of refusing to accept or review charter school applications.

(9) "On-line pupil" means:



(a) For the 2007-08 budget year, a child who receives educational services predominantly through an on-line program or on-line school created pursuant to article 30.7 of this title;

(b) For the 2008-09 budget year, and for each budget year thereafter, a child who receives educational services predominantly through a multi-district on-line school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title.

(9.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(10) "School district" means a school district organized and existing under the laws of Colorado, except a junior college district.

(10.5) "School food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(11) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(12) "State charter school institute" or "institute" means the entity created pursuant to section 22-30.5-503.

**Source:** **L. 2004:** Entire part added, p. 1595, § 1, effective July 1. **L. 2006:** (10) amended, p. 573, § 2, effective April 24. **L. 2007:** (9) amended, p. 1088, § 13, effective July 1. **L. 2009:** (10.5) added, (SB 09-230), ch. 227, p. 1033, § 4, effective May 4. **L. 2010:** (10.5)(a) amended and (10.5)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 4, effective August 11. **L. 2011:** (2.5) added, (HB 11-1254), ch. 173, p. 654, § 4, effective May 13; (10.5)(a.3) added, (HB 11-1277), ch. 306, p. 1504, § 33, effective August 10. **L. 2012:** (9.5) added, (HB 12-1090), ch. 44, p. 151, § 8, effective March 22; (4.5) added, (SB 12-061), ch. 109, p. 381, § 6, effective April 13; (1) amended, (HB 12-121), ch. 177, p. 638, § 6, effective May 11; (2.5) amended, (HB 12-1345), ch. 188, p. 747, § 36, effective May 19; (9) amended, (HB 12-1240), ch. 258, p. 1317, § 30, effective June 4; (4.5) added, (SB 12-067), ch. 131, p. 451, § 5, effective August 8.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (2.5), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, (HB 12-1345), Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

**22-30.5-503. State charter school institute - establishment - rules.** (1) (a) There is established, as an independent agency in the department of education, the state charter school institute. The institute shall exercise its powers and perform its duties and functions as if it were transferred to the department by a **type 1** transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(b) In addition to any other powers or duties granted by law to the institute, the institute shall:

(I) Review institute charter school applications and assist in the establishment of institute charter schools throughout the state;

(II) Assist in the conversion of a school district charter school to an institute charter school pursuant to section 22-30.5-510 (1);

(III) Approve or deny institute charter school applications and revoke, renew, or refuse to renew institute charter school contracts; and

(IV) Monitor the operations of institute charter schools and the academic achievement of students attending institute charter schools, including compliance with applicable state and federal accountability requirements.

(c) The institute is authorized to enter into contracts or service agreements with any public or private contractor to provide administrative services or technical assistance to institute charter schools pursuant to this part 5. Any such contract or service agreement shall also include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract and shall be in accordance with rules promulgated by the institute board.

(2) It is the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.

(3) For purposes of federal law, the state charter school institute shall be a local educational agency, deemed to be a public authority legally constituted within the state for the administrative control and direction of, and to perform a service function for, public elementary schools and secondary schools in the state.

(3.5) (a) The state charter school institute may act as the local education agency and fiscal agent for purposes of grant management and liability for a district charter school, an institute charter school, or a consortium of charter schools that chooses to apply for a grant through a nonformulaic, competitive grant program created by a federal or state statute or program; except that the provisions of this subsection (3.5) shall not apply to an application for:

(I) A grant program created in the federal “Individuals with Disabilities Education Act”, 20 U.S.C. sec. 1400 et seq., as amended, or in its implementing regulations.

(II) (Deleted by amendment, L. 2011, (HB11-1089), ch. 55, p. 147, 1, effective March 25, 2011.)

(b) In acting as a local education agency and fiscal agent for purposes of grant management and liability pursuant to this subsection (3.5), the institute shall treat district charter schools and institute charter schools equally.

(c) The institute board, by rule, may establish a fee that a district charter school, an institute charter school, or a consortium of charter schools shall pay if it requests that the institute act as the local education agency and fiscal agent for purposes of grant management and liability for the charter school or consortium of charter schools pursuant to this subsection (3.5). The amount of the fee shall not exceed the direct costs incurred by the institute in implementing the provisions of this subsection (3.5). Any amount received by the institute from fees paid pursuant to this subsection (3.5) is continuously appropriated to the institute for the costs incurred in implementing this subsection (3.5). The institute board shall adopt rules as necessary to implement the provisions of this subsection (3.5).

(d) The state board shall promulgate rules to establish processes, guidelines, and eligibility for a single school or consortium of schools to apply for grants and programs pursuant to this section.

(4) For purposes of the “Exceptional Children’s Educational Act”, article 20 of this title, the state charter school institute shall be considered an administrative unit, responsible for assisting in the delivery of federally required services to students enrolled in institute charter schools. The institute may provide or contract for the provision of services to a student enrolled in an institute charter school.

(5) The state charter school institute shall be responsible for monitoring the fiscal management of each institute charter school. Each institute charter school shall annually provide to the institute the results of an independent financial audit of the institute charter school. The institute shall report to the state board the same financial information in the same format that school districts are required to report to the state board pursuant to this title. Institute charter schools shall compile and report to the institute the same financial information in the same format that charter schools are required to report to school districts pursuant to part 1 of this article.

(6) The institute and institute charter schools shall be deemed part of the thorough and uniform system of free public schools to be established and maintained by the general assembly, as required in section 2 of article IX of the state constitution. The state board shall



have general supervision of institute charter schools, as required in section 1 of article IX of the state constitution.

(7) The institute, by virtue of its functions and duties, shall not be deemed to be a school district for any purpose.

(8) The institute and the institute board are agencies of the state for purposes of the public records provisions of part 2 of article 72 of title 24, C.R.S., and state public bodies for purposes of the open meetings provisions of part 4 of article 6 of title 24, C.R.S.

**Source:** **L. 2004:** IP(1)(b) amended, p. 1591, § 24, effective June 3; entire part added, p. 1596, § 1, effective July 1. **L. 2008:** (1)(b)(II) amended and (8) added, p. 495, 487, §§ 9, 1, effective April 17. **L. 2010:** (3.5) added, (SB 10-161), ch. 250, p. 1116, § 5, effective August 11. **L. 2011:** (3.5)(a) amended, (HB 11-1089), ch. 55, p. 147, § 1, effective March 25; (3.5)(d) added, (HB 11-1277), ch. 306, p. 1504, § 30, effective August 10. **L. 2012:** (3.5) amended, (SB 12-121), ch. 177, p. 637, § 5, effective May 11.

**22-30.5-503.5. School response framework.** The state charter school institute shall establish a school response framework that complies with the provisions of section 22-32-109.1 (4) for each state charter school.

**Source:** **L. 2008:** Entire section added, p. 804, § 4, effective May 14.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2008.

**22-30.5-504. Institute chartering authority - institute charter schools - exclusive authority - retention - recovery - revocation.** (1) The institute shall be authorized to approve or deny an application submitted for the establishment of an institute charter school pursuant to this part 5.

(2) An institute charter school applicant may submit an application to the institute only if the school district in which the institute charter school is to be located has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section. If a school district has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section, the school district and the institute shall have concurrent authority to authorize charter schools and institute charter schools, respectively, to be located within the geographic boundaries of the school district. The school district shall monitor and oversee all charter schools authorized by the school district as provided in part 1 of this article. The institute shall monitor and oversee all institute charter schools authorized by the institute as provided in this part 5.

(3) Nothing in this part 5 shall be construed to eliminate the ability of a school district to authorize charter schools pursuant to part 1 of this article. A school district shall retain the authority to re-authorize and to oversee any charter school which it has authorized, except with respect to any charter school that is converted to an institute charter school pursuant to section 22-30.5-510.

(4) (a) A local board of education may seek to retain or recover exclusive authority to authorize charter schools within the geographic boundaries of the school district by presenting to the state board, on or before March 1 of the fiscal year prior to that for which the exclusive authority is to apply, a written resolution adopted by the local board of education indicating the intent to retain or recover exclusive authority to authorize charter schools. The written resolution shall be accompanied by a written description of those portions of subsection (5) of this section that the local board of education intends to demonstrate. The local board of education shall provide a complete copy of the resolution, including the description, to each charter school authorized by the local board on or before the date the local board submits the resolution to the state board. The state board shall determine within sixty days after receiving the resolution whether to grant the local board of education exclusive authority. If the state board denies the local board exclusive authority

to authorize charter schools within the geographic boundaries of the school district, it shall provide to the local board of education a written explanation of the basis for the denial.

(b) A party may challenge the grant of exclusive authority made by the state board pursuant to subsection (5) of this section by filing with the state board a notice of challenge within thirty days after the state board grants exclusive authority. The notice shall be accompanied by a specific written description, with supporting documentation, of the basis for the challenge. The challenging party, at the time of filing notice with the state board, shall provide a copy of the notice of challenge, with the written description of the basis and supporting documentation, to the local board of education that has been granted exclusive authority. The state board shall permit the local board the opportunity to appear at a public hearing and respond to the challenge and shall permit the challenger the opportunity at the public hearing to rebut any arguments made by the local board. If the local board of education intends to respond to the challenge, it shall submit a copy of its response in writing, with supporting documentation, to the challenging party and the state board at least fifteen days prior to the public hearing. The state board shall make a determination upon the challenge within sixty days after receipt of the notice of challenge. In announcing its determination, the state board shall provide a written explanation of the basis for its decision to either grant or deny to the local board exclusive authority to authorize charter schools within the geographic boundaries of the school district.

(c) If a local board of education recovers exclusive authority pursuant to this section to authorize charter schools within the geographic boundaries of the school district, any institute charter schools authorized within the geographic boundaries of the school district prior to the date on which the local board of education recovered exclusive authority shall continue to be authorized by and accountable to the institute; except that an institute charter school that is converted to a district charter school pursuant to subsection (10) of this section shall be accountable to the local board of education.

(d) Each local board of education that has been granted, prior to or on or after April 17, 2008, exclusive authority to charter schools within the geographic boundaries of the school district shall retain exclusive authority until the local board of education voluntarily relinquishes the exclusive authority or the state board of education revokes the exclusive authority pursuant to the provisions of subsection (7.5) of this section. A local board of education that voluntarily relinquishes exclusive authority may regain exclusive authority by applying pursuant to the provisions of this subsection (4).

(5) (a) The state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the state board determines, after adequate notice and in a public hearing and after receiving input from any charter schools authorized by the local board of education, that the local board can show a recent pattern of providing fair and equitable treatment to its charter schools through the local board's demonstration of:

(I) Full compliance with the provisions of the "Charter Schools Act", part 1 of this article, which includes, at a minimum:

(A) Compliance with full and accurate accounting practices and charges for central administrative overhead costs;

(B) Compliance with sections 22-30.5-112 and 22-30.5-112.1, which permit a charter school to purchase, at its discretion, certain services or a combination of services;

(C) The absence of a school district moratorium regarding charter schools or the absence of any district-wide charter school enrollment limits; and

(D) Compliance with valid orders of the state board; and

(II) Any combination of the following:

(A) The distribution to charter schools authorized by the local board of a pro rata share of mill levy overrides, except for any mill levied for a particular purpose that by its express terms is intended to benefit a grade, a program, or a school and, as a result, is not available to be offered to any charter school that did not participate in the mill levy proceeds;

(B) The provision of assistance to charter schools to meet their facilities needs, by including those needs in local bond issues or otherwise providing available land and facilities that are comparable to those provided to other public school students in the same grade levels within the school district;



(C) The distribution to charter schools authorized by the local board of a pro rata share of federal and state grants received by the school district, except for any grant received for a particular purpose that by its express terms is intended to benefit a student population not able to be served by, or a program not able to be offered at, a charter school which did not receive a proportionate share of such grant proceeds;

(D) The provision of adequate staff and other resources to serve charter schools authorized by the local board, which services are provided by the school district at a cost to the charter schools that does not exceed their actual cost to the school district, or, in the case of federally required educational services, the amount specified in section 22-30.5-112 (2) (a.8);

(E) The lack of a policy or practice of imposing individual charter school enrollment limits, except as otherwise provided in article 36 of this title; or

(F) The provision of an adequate number of educational choice programs to serve students exercising their rights to transfer pursuant to the "No Child Left Behind Act of 2001", Public Law 107-110, and a history of charter school approval that encourages programs that serve at-risk student populations.

(b) Notwithstanding any other provision of this subsection (5) to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the local board certifies that:

(I) The total pupil enrollment of the school district is less than three thousand pupils.

(II) (Deleted by amendment, L. 2008, p. 487, § 2, effective April 17, 2008.)

(c) Notwithstanding any other provision of this subsection (5), the state board shall not deny exclusive authority to a local board of education based upon a school district moratorium regarding charter schools that was in existence prior to July 1, 2004, but was repealed on or before October 1, 2004.

(d) If the state board denies the exclusive authority of a local board of education to authorize charter schools within the geographic boundaries of the school district, the local board may reapply to retain or recover exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the denial.

(6) For local boards of education that have no discernable history of considering charter school applications or authorizing charter schools, the state board shall grant exclusive authority if the local board demonstrates its compliance with the provisions of sub-subparagraphs (C) and (D) of subparagraph (I) of paragraph (a) of subsection (5) of this section and presents to the state board a plan to implement a combination of the authorizing practices described in paragraph (a) of subsection (5) of this section.

(7) A grant of exclusive authority by the state board shall continue so long as a local board of education continues to comply with the provisions of subsection (5) of this section, and the local board need not reapply; except that a local board of education that retains exclusive authority pursuant to paragraph (b) of subsection (5) of this section shall reapply for exclusive authority if the criteria specified in said paragraph (b) no longer apply to the school district.

(7.5) (a) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district by filing a request for revocation with the state board. A charter school may request revocation of the exclusive authority only of its chartering local board. A charter applicant may request revocation of the exclusive authority only of a local board of education to which it may apply for a charter.

(b) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority only on the grounds that the local board, since the date that the local board received exclusive authority, has demonstrated a pattern of failing to comply with one or more of the provisions of the "Charter Schools Act", part 1 of this article. A charter school, a charter school applicant, or an organization that represents charter schools may not request revocation of a local board of education's exclusive authority solely on the basis of:

(I) The local board's refusal of a charter application; or

(II) An action by the local board that a charter school or a charter school applicant may appeal to the state board pursuant to section 22-30.5-108, unless the action would otherwise constitute grounds for denial or revocation of exclusive authority.

(c) To request revocation of a local board of education's exclusive authority, a charter school, a charter school applicant, or an organization that represents charter schools shall file a notice of request for revocation with the state board, accompanied by a specific written description, with supporting documentation, of the basis for the request. The requesting party, at the time of filing the notice with the state board, shall provide a copy of the notice of request for revocation and the basis for the request, with the supporting documentation, to the affected local board of education. The state board shall permit the local board the opportunity to appear at a public hearing and respond in writing to the request for revocation and shall permit the requesting party the opportunity at the public hearing to rebut any arguments made by the local board. If the local board intends to respond to the request for revocation, it shall submit a copy of its response in writing, with supporting documentation, to the requesting party and the state board at least fifteen days prior to the public hearing. The state board shall determine whether to grant or deny the request for revocation, based on the criteria for granting exclusive authority specified in subsections (5) and (6) of this section, within sixty days after receiving the notice. If the state board revokes the local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district, it shall provide a written explanation of the basis for the revocation.

(d) If the state board revokes a local board of education's exclusive authority, the local board may apply to recover the grant of exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the revocation. The state board shall consider the local board of education's application and either grant or deny the local board exclusive authority as provided in subsection (5) of this section.

(8) Notwithstanding any other provision of this section to the contrary, a local board of education may permit the establishment of one or more institute charter schools within the geographic boundaries of the school district by adopting a favorable resolution and submitting the resolution to the state board. The resolution shall be effective until it is rescinded by resolution of the local board of education.

(9) (a) Notwithstanding any other provision of this section to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the school district annually certifies to the state board that the total number of students enrolled in charter schools authorized by the school district, or the maximum number of students allowed to be enrolled pursuant to charter school contracts entered into by the school district, whichever is greater, divided by the district pupil enrollment, as defined in section 22-54-103, for that budget year, reflected as a percentage, exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide.

(b) A school district that retains exclusive authority to authorize charter schools pursuant to paragraph (a) of this subsection (9) shall satisfy the requirements of paragraph (a) of subsection (5) of this section.

(10) (a) An institute charter school that is located within the geographic boundaries of a school district that recovers exclusive authority to authorize charter schools, as provided in subsection (4) of this section, or that permitted the establishment of the institute charter school within its geographic boundaries, as provided in subsection (8) of this section, may apply to the board of education of the school district in which it is located to convert to a district charter school. To convert to a district charter school, the institute charter school shall submit an application to the local board of education as if it were applying for a new charter in accordance with the provisions of part 1 of this article.

(b) An application to convert an existing institute charter school to a district charter school shall include evidence that an adequate number of parents, teachers, or pupils, or any combination thereof, supports the conversion of the institute charter school to a district charter school.



(c) A local board of education's approval of an application from an existing institute charter school submitted pursuant to this subsection (10) shall not relieve the institute charter school of any preexisting contractual obligations or relationships, including obligations of the institute charter school to the institute; except that the institute charter school shall no longer be subject to the oversight and control of the institute. The transfer of oversight of an institute charter school from the institute to a school district shall not be deemed a dissolution or other event that empowers or obligates the institute to wind down the institute charter school's affairs or to dispose of the institute charter school's assets.

**Source:** **L. 2004:** Entire part added, p. 1597, § 1, effective July 1. **L. 2007:** (5)(c) added, p. 740, § 16, effective May 9. **L. 2008:** (4), IP(5)(a), (5)(a)(I)(B), (5)(b), (6), and (7) amended and (5)(d), (7.5), and (10) added, pp. 487, 490, 491, §§ 2, 3, 4, effective April 17.

#### ANNOTATION

**School districts deemed to have standing to sue** when alleging that charter school legislation infringed upon powers granted under § 15 of article IX of the state constitution. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**Individuals would have had standing to sue** as a result of their interest in seeing that governmental entities function within the bounds of the state constitution. However, in this case, individual plaintiffs failed to submit evidence of their status as taxpayers, so court did not find that they had standing. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**Because this part 5 maintains the balance between the competing interests of the local district and the state,** it is constitutional. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**Creation of state charter school institute does not violate the "general supervision" provision of § 1 of article IX of the state constitution** because it is intended to make the statewide education system more thorough by expanding the options available to all students in the state and more uniform by ensuring that comparable opportunities for creating charter schools exist across the state. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**The constitutional requirement of a "thorough and uniform system", § 2 of article IX of the state constitution, should not be interpreted to mean a single uniform system of public schools** consisting of school districts governed by locally elected officials. The state is not prohibited from creating a school system with different types of schools, some controlled by school districts while others are not, so long as the additional educational opportunities are open to all students in the state. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**Local boards' power to implement, guide, or manage educational programs in local public schools is not usurped by charter school institute.** Nothing in this part 5 forces anything upon local school districts. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**Decision to operate a public school is not a "municipal function"** that the general assembly may not delegate to the charter school institute without violating § 35 of article V of the state constitution. The functioning of the public schools does not primarily affect only those within the geographic boundaries of a school district. *Boulder Valley Sch. Dist. RE-2 v. Colo. State Bd. of Educ.*, 217 P.3d 918 (Colo. App. 2009).

**22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules.** (1) The institute shall consist of the institute board, appointed pursuant to subsection (2) of this section, and any staff or contract employees hired by the institute board as authorized by law. Any staff hired by the institute board shall be deemed employees subject to the state personnel system of this state as defined in section 13 of article XII of the state constitution and article 50 of title 24, C.R.S.; except that, as a matter of legislative determination, all positions classified by the institute board as professional officers and professional staff of the institute are declared to be educational in nature and exempt from the state personnel system.

(2) (a) The institute board shall consist of nine members, no more than five of whom are members of the same political party. Seven of the members shall be appointed by the governor, with the consent of the senate, and two of the members shall be appointed by the

commissioner. In making the appointments, the governor and the commissioner shall ensure the institute board reflects the geographic diversity of the state. In making appointments on and after August 5, 2009, the governor and the commissioner shall ensure that at least one member of the institute board is a parent of a student who is, or who has been, enrolled in an institute charter school. Members appointed to the institute board shall have experience in at least one of the following areas:

- (I) Experience as a charter school board member or founder of a charter school;
- (II) Experience as a public school administrator with experience working with charter schools;
- (III) Financial management expertise;
- (IV) Detailed knowledge of charter school law;
- (V) Other board or public service experience;
- (VI) Experience as a public school teacher;
- (VII) On-line education and on-line curriculum development expertise;
- (VIII) School district special education expertise; and
- (IX) Curriculum and assessment expertise.

(b) The members of the institute board shall serve terms of three years; except that, of the members first appointed by the governor, two members shall serve a term of three years, three members shall serve a term of two years, and two members shall serve a term of one year; and of the members first appointed by the commissioner, one member shall serve a term of three years and one member shall serve a term of one year. No member shall serve more than six consecutive years. The governor and the commissioner shall make the initial appointments no later than thirty days after July 1, 2004.

(c) An institute board member may be removed for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the institute board exists, the person making the original appointment shall appoint a member for the remaining portion of the unexpired term created by the vacancy.

(d) For any board member appointed on or after May 22, 2008, during his or her term of office, a member of the institute board shall not be a member of the general assembly; an officer, employee, or board member of a school district; a member of the state board; or an employee of the institute board or the department of education.

(3) The mission of the institute board shall be to foster high-quality public school choices offered through institute charter schools, including particularly schools that are focused on closing the achievement gap for at-risk students. In discharging its duties pursuant to this part 5, the institute shall:

- (a) Act as a model of best practices in authorizing charter schools;
- (b) Use state and federal systems for ensuring the accountability of each institute charter school in meeting the obligations and goals set forth in its contract and shall adopt and implement policies for accreditation of institute charter schools as described in section 22-11-307;
- (c) Measure the academic success of each institute charter school student through longitudinal indices;
- (d) Measure the academic success of each institute charter school through performance-based means and not process-based means;
- (d.5) Meet at least once each year with the school accountability committees of the institute charter schools to discuss issues concerning accountability and accreditation of institute charter schools;
- (e) Provide the opportunity for a student enrolled in an institute charter school to develop a plan for academic remediation upon the request of the student's parent or legal guardian; and

(f) Ensure that each student who enrolls in the sixth grade in an institute charter school, on the day of enrollment, is registered with the state-provided, free on-line college planning and preparation resource, commonly referred to as "CollegeInColorado.org". The institute, the department, and the department of higher education shall collaborate to monitor the implementation of this paragraph (f) and to ensure optimal interactivity between the various data bases and student record systems employed by institute charter schools and college in Colorado. At a minimum, each institute charter school shall ensure that, in developing and



maintaining each student's individual career and academic plan, the counselor or teacher explains to the student's parent or legal guardian, by electronic mail or other written form, and to the student the requirements for and benefits of concurrently enrolling in courses with an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of this title. Based on a request from the student or the student's parent or legal guardian, the counselor or teacher shall assist the student in course planning to enable the student to concurrently enroll in courses with an institution of higher education.

(3.5) The institute board shall ensure that the names of institute board members and the schedule of, agendas for, and minutes of the meetings and hearings held by the institute board are promptly posted and updated on the state charter school institute's web site. The department on its web site shall provide a link to the state charter school institute's web site.

(4) In addition to any other powers granted by law to the institute board, the institute board shall have the following powers:

- (a) To have and use a corporate seal;
- (b) To sue and be sued in its own name;
- (c) To incur debts, liabilities, and obligations, subject to any limitations imposed thereon pursuant to law;
- (d) To cooperate and contract with the state or federal government or an agency or instrumentality thereof and to apply for and receive grants or financial assistance from any such entities;
- (e) To acquire, hold, lease, sell, or otherwise dispose of real or personal property or a commodity or service;
- (f) To do or perform an act authorized by this part 5 by means of an agent or by contract with a person, firm, or corporation;
- (g) To provide for the necessary expenses of the institute board in the exercise of its powers and the performance of its duties and to reimburse a board member for necessary expenses incurred in the performance of the board member's duties;
- (h) To provide for the proper keeping of accounts and records and for budgeting of funds;
- (i) To act as a public entity for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.;
- (j) To exercise the same powers retained by boards of cooperative services that are described in section 22-5-108;
- (k) To promulgate rules in accordance with article 4 of title 24, C.R.S., for the administration of this part 5; and
- (l) To award grants from the institute charter school assistance fund as provided in section 22-30.5-515.5.

(5) No later than ninety days after the date the institute commences operations, as described in section 22-30.5-506 (2) (a), the institute board shall promulgate rules that set forth the procedures for the acceptance of institute charter school applications and the criteria for authorizing institute charter schools pursuant to this part 5.

(6) (a) The institute may contract with boards of cooperative services created pursuant to article 5 of this title, or with any other qualified individual or public or private entity or organization, including a school district, for the provision of administrative or other support services directly to the institute or for the benefit of institute charter schools.

(b) This part 5 shall not be construed to require the institute to provide services to an institute charter school, to require an institute charter school to purchase services from the institute, nor to prohibit an institute charter school from purchasing education-related services from any sources available, including a school district.

(7) The institute shall ensure that each institute charter school complies with the provisions of articles 7 and 11 of this title. Each institute charter school shall be responsible for gathering and submitting to the institute the data necessary to prepare a school performance report required by section 22-11-503 for the institute charter school.

(8) The institute shall ensure that each institute charter school adopts content standards in a manner consistent with that required of school districts pursuant to section 22-7-407.

(9) The institute shall ensure that each institute charter school addresses the expulsion, suspension, and education of expelled or suspended students in a manner consistent with the intents and purposes of sections 22-33-105, 22-33-106, and 22-33-203.

(10) The institute may issue requests for proposals to solicit applications for an institute charter school to serve at-risk students.

(11) The institute shall annually review each institute charter school's accomplishment of the goals described in section 22-30.5-509.

(12) (a) The institute shall collect from each institute charter school authorized on or after July 1, 2010, the data specified in paragraph (b) of this subsection (12) for the institute charter school's first academic year of operation. At a minimum, the institute shall require the institute charter school to submit the collected data by August 1 of the institute charter school's first academic year of operation and to update the information, if necessary, by the following May 1. Upon receipt of a request from a school district, the institute shall provide a copy of the collected data to the school district.

(b) The data collected pursuant to this subsection (12) shall include, at a minimum:

(I) The projected aggregate number of students enrolling in the institute charter school for the academic year who were enrolled in schools of the school district for the preceding academic year; and

(II) For each student included in subparagraph (I) of this paragraph (b), to the extent known:

(A) The name of the school in which the student was enrolled in the preceding academic year; and

(B) The name of the institute charter school and the grade in which the student is enrolled for the academic year.

(13) Pursuant to section 22-30.5-517, the institute shall adopt and implement a policy that regulates the sale of beverages to students at an institute charter school.

(14) If an institute charter school requests in writing that the institute provide food services pursuant to a contract with the institute charter school that includes certain terms specified by the institute charter school, the institute may attempt to negotiate the terms of the contract with the institute charter school. If the institute and the institute charter school attempt to negotiate contract terms that are mutually satisfactory, and the negotiations fail to produce such mutually satisfactory terms, the institute shall:

(a) Agree to provide food services to the institute charter school according to the terms requested by the institute charter school; or

(b) Allow the institute charter school to transfer the maintenance, supervision, and operation of the institute charter school's food-service facility from the institute to a school food authority.

(15) Pursuant to section 22-30.5-518, the institute shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in institute charter schools.

(16) Pursuant to section 22-30.5-519, the institute shall annually provide to parents and legal guardians the standardized immunization document developed by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S.

(17) Repealed.

(18) The institute shall ensure that each institute charter school, working with its school accountability committee, adopts and implements a policy concerning physical activity for students enrolled in the institute charter school, which policy meets the requirements specified in section 22-32-136.5.

(19) (a) Pursuant to section 22-30.5-521, on or before October 1, 2011, the institute shall adopt and implement a policy concerning bullying prevention and education. The policy, at a minimum, shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(b) The institute is encouraged to include in the policy it adopts and implements pursuant to paragraph (a) of this subsection (19) the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section



22-93-104 (1) (c); character building; and the designation of a team of persons at each institute charter school who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

**Source:** **L. 2004:** Entire part added, p. 1600, § 1, effective July 1. **L. 2005:** (3)(e) added, p. 520, § 3, effective May 24. **L. 2007:** (2)(d) added, p. 740, § 17, effective May 9. **L. 2008:** IP(3) amended and (3.5) and (12) added, p. 492, §§ 5, 6, effective April 17; (2)(d) amended, p. 1211, § 23, effective May 22; (13) added, p. 643, § 5, effective August 5. **L. 2009:** (14) added, (SB 09-230), ch. 227, p. 1034, § 5, effective May 4; (3)(b) and (7) amended, (SB 09-163), ch. 293, p. 1539, § 34, effective May 21; (3)(d) and (3)(e) amended and (3)(f) added, (SB 09-256), ch. 294, p. 1555, § 13, effective May 21; (4)(j) and (4)(k) amended and (4)(l) added, (SB 09-089), ch. 440, p. 2435, § 3, effective June 4; (2)(a) and (2)(d) amended, (SB 09-090), ch. 291, p. 1440, §§ 6, 7, effective August 5; (15) added, (SB 09-226), ch. 245, p. 1105, § 3, effective August 5. **L. 2010:** (3)(d.5) and (17) added and (4)(l), (12)(a), (12)(b)(I), and (12)(b)(II)(B) amended, (SB 10-111), ch. 170, pp. 604, 600, 602, 603, §§ 13, 3, 6, 10, effective August 11; (16) added, (SB 10-056), ch. 50, p. 191, § 1, effective August 11. **L. 2011:** (18) added, (HB 11-1069), ch. 117, p. 366, § 2, effective April 20; (19) added, (HB 11-1254), ch. 173, p. 654, § 5, effective May 13. **L. 2012:** (3)(f) and (9) amended, (HB 12-1345), ch. 188, pp. 728, 750, §§ 16, 42, effective May 19; (3)(f) amended, (HB 12-1043), ch. 209, p. 899, § 2, effective August 8.

**Editor's note:** (1) Subsection (3)(e) was originally numbered as (3)(l) in House Bill 05-1027 but has been renumbered on revision for ease of location.

(2) Subsection (17)(b) provided for the repeal of subsection (17), effective July 1, 2011. (See L. 2010, p. 600.)

(3) Amendments to subsection (3)(f) by House Bill 12-1043 and House Bill 12-1345 were harmonized.

(4) Section 6 of chapter 209, Session Laws of Colorado 2012, provides that the amendments to subsection (3)(f) by House Bill 12-1043 take effect only if Senate Bill 12-047 does not become law. Said bill was not enacted.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (2)(d), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration contained in the 2008 act enacting subsection (13), see section 1 of chapter 185, Session Laws of Colorado 2008. For the legislative declaration contained in the 2009 act adding subsection (15), see section 1 of chapter 245, Session Laws of Colorado 2009. For the legislative declaration in the 2012 act amending subsection (3)(f), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in the 2012 act amending subsection (9), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, (HB 12-1345), Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

**22-30.5-506. State charter school institute fund - created.** (1) The state charter school institute is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this part 5, subject to the terms and conditions under which given; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Any gifts, grants, or donations received pursuant to this subsection (1) shall be transmitted to the state treasurer who shall credit the same to the state charter school institute fund, hereinafter referred to as the "fund", which fund is hereby created in the state treasury. Moneys in the fund are continuously appropriated to the institute, to offset the actual and reasonable costs incurred by the institute in implementing this part 5. All investment earnings derived from the deposit and investment of the moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the

fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(2) (a) The institute shall not be obligated to commence operations necessary to receive applications, until such time as there is at least fifty thousand dollars in the fund, whether received from gifts, grants, donations, or other sources.

(b) The institute shall not be obligated to commence review of applications actually received, until such time as the balance in the fund reaches at least one hundred fifty thousand dollars, whether received from gifts, grants, donations, or other sources.

(3) The state charter school institute shall create in the fund a school food authority account, and any moneys received by the state charter school institute as a result of its operations as a school food authority shall be credited to the school food authority account. Any moneys credited to the school food authority account are continuously appropriated to the state charter school institute to offset the costs incurred in operating as a school food authority.

(4) The state charter school institute shall create in the fund an account for payment of the institute's administrative overhead costs, as defined in section 22-30.5-513 (1) (h), which account consists solely of moneys retained by the institute from the institute charter schools' adjusted per pupil revenues and per-pupil on-line funding pursuant to section 22-30.5-513 (4) (a) (1.5) (E). At the end of a budget year, if the amount of unexpended and unencumbered moneys remaining in the account exceeds ten percent of the total adjusted per pupil revenues and per-pupil on-line funding for institute charter schools for the applicable budget year, the institute shall refund to the institute charter schools the amount of the excess. The institute shall allocate the refund to each institute charter school on a per-pupil basis by dividing the excess amount by the total pupil enrollment of the institute charter schools for the applicable budget year.

**Source: L. 2004:** Entire part added, p. 1603, § 1, effective July 1. **L. 2010:** (1) amended and (3) added, (SB 10-111), ch. 170, p. 600, § 4, effective August 11. **L. 2012:** (1) amended and (4) added, (SB 12-121), ch. 177, p. 639, § 8, effective May 11.

#### **22-30.5-507. Institute charter school - requirements - authority - rules.**

(1) (a) An institute charter school shall be a public, nonsectarian, nonreligious, non-home-based school that operates pursuant to a charter contract authorized by the state charter school institute.

(b) An institute charter school shall exist as a public school within the state, unaffiliated with a school district. Nothing in this part 5 shall be construed to permit a school district to determine curriculum, policies, procedures, or operations of an institute charter school, including but not limited to compliance with the accountability provisions specified in this title, accreditation contracts, and statewide assessment requirements.

(c) Each institute charter school authorized on or after July 1, 2008, shall include within its name the phrase "state charter school".

(2) An institute charter school shall be:

(a) Subject to the terms of the charter contract entered into with the institute;

(b) Accountable to the institute for purposes of ensuring compliance with applicable laws and charter contract provisions; and

(c) Subject to accreditation by the institute board pursuant to the institute's policy for accrediting the institute charter schools adopted pursuant to section 22-11-307 and section 22-30.5-505 (3) (b). Each institute charter school shall also be subject to annual review by the department pursuant to section 22-11-210.

(3) An institute charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. Enrollment in an institute charter school shall be open to any child who resides within the state; except that an institute charter school shall not be required to make alterations in the structure of the facility used by the institute charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be



required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the applicant in the institute charter school application.

(4) (a) An institute charter school shall be administered and governed by a governing body in a manner agreed to and set forth in the charter contract. Effective July 1, 2013, each institute charter school shall organize as a nonprofit corporation pursuant to the “Colorado Revised Nonprofit Corporation Act”, articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law.

(b) An entity that holds a charter authorized pursuant to this part 5 may choose to contract with an education management provider, which education management provider may be a for-profit, a nonprofit, or a not-for-profit entity, so long as the institute charter school maintains a governing board that is independent of the education management provider.

(5) In order to clarify the status of institute charter schools for purposes of tax-exempt financing, an institute charter school, as a public school, is a governmental entity. Direct leases and financial obligations of an institute charter school shall not constitute debt or financial obligations of the state or any school district.

(6) Except as otherwise provided in sections 22-20-109 (5), 22-32-115 (1) and (2), and 22-54-109, an institute charter school shall not charge tuition.

(7) (a) Pursuant to the charter contract, an institute charter school may operate free from specified statutes and state board rules. The state board shall promulgate rules identifying state statutes and state rules that are automatically waived for all charter schools, including institute charter schools.

(b) An institute charter school may apply to the state board, through the institute, for a waiver of state statutes and state rules that are not automatically waived. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any statute or rule relating to school accountability committees as described in section 22-11-401, any state statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any state statute or rule necessary to prepare the school performance reports pursuant to part 5 of article 11 of this title, or any statute or rule necessary to implement the provisions of the “Public School Finance Act of 1994”, article 54 of this title, or any state statute or rule relating to the “Children’s Internet Protection Act”, article 87 of this title.

(c) Any waiver of state statute or state board rule made pursuant to this subsection (7) shall be for the term of the contract for which the waiver is made. A request for a waiver may be submitted to the institute as a part of the application for an institute charter school.

(8) (a) An institute charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, and personnel matters.

(b) An institute charter school may negotiate and contract with a school district, the governing body of a state college or university, a school food authority, a charter school collaborative, a board of cooperative services, another institute charter school, a district charter school, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the institute charter school is required to perform in order to carry out the educational program described in its charter contract. The institute charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(9) An institute charter school is authorized to offer any educational program, including but not limited to an on-line program or on-line school pursuant to article 30.7 of this title, that may be offered by a school district, unless expressly prohibited by its charter contract or by state law.

(10) All decisions regarding the planning, siting, and inspection of institute charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the institute.

(11) An institute charter school may apply for authorization as a school food authority pursuant to section 22-32-120.

**Source:** **L. 2004:** (7) amended, p. 1592, § 27, effective June 3; entire part added, p. 1604, § 1, effective July 1. **L. 2007:** (9) amended, p. 1089, § 14, effective July 1. **L. 2008:** (1)(c) added, p. 492, § 7, effective April 17; (3) amended, p. 1601, § 22, effective May 29. **L. 2009:** (8)(b) amended and (11) added, (SB 09-230), ch. 227, p. 1034, § 6, effective May 4; (2)(c) and (7) amended, (SB 09-163), ch. 293, p. 1539, § 35, effective May 21; (7) amended, (SB 09-090), ch. 291, p. 1446, § 23, effective August 5. **L. 2010:** (8)(b) amended, (SB 10-111), ch. 170, p. 599, § 2, effective August 11; (8)(b) amended, (SB 10-161), ch. 250, p. 1115, § 2, effective August 11. **L. 2011:** (8)(b) amended, (HB 11-1277), ch. 306, p. 1504, § 34, effective August 10. **L. 2012:** (7) amended, (SB 12-121), ch. 177, p. 638, § 7, effective May 11; (9) amended, (HB 12-1240), ch. 258, p. 1317, § 31, effective June 4; (4) amended, (SB 12-067), ch. 131, p. 451, § 6, effective August 8.

**Editor's note:** (1) Amendments to subsection (7) by Senate Bill 09-090 and Senate Bill 09-163 were harmonized.

(2) Amendments to subsection (8)(b) by Senate Bill 10-111 and Senate Bill 10-161 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 341, Session Laws of Colorado 2008.

**22-30.5-508. Institute charter schools - contract contents - regulations.** (1) (a) An approved institute charter school application shall serve as the basis for a charter contract between the institute charter school and the institute.

(b) The institute board may approve an institute charter school application submitted by a nonprofit entity, and the institute may enter into a charter contract directly with the nonprofit entity to operate an institute charter school. The institute board shall not approve a charter school application that is submitted by a for-profit entity or that identifies a for-profit entity as one of the charter applicants, and the institute shall not enter into a charter contract directly with a for-profit entity to operate an institute charter school.

(2) Repealed.

(3) The charter contract between the institute charter school and the institute shall reflect all requests for release from state statutes and rules made by the institute charter school applicant. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the institute charter school of its decision. If the state board denies the request, it shall notify the institute charter school in writing that the request is denied and specify the reasons for denial. If the institute charter school does not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or rules, the denial shall specify the state statutes and rules for which the release is denied, and the denial shall apply only to those state statutes and rules so specified.

(4) A material revision of the terms of the charter contract may be made only with the approval of the institute and the governing body of the institute charter school.

(5) Any term included in a charter contract that would require an institute charter school to waive or otherwise forgo receipt of any amount of operational or capital construction funds provided to the institute charter school pursuant to the provisions of this part 5 or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. In no event shall this subsection (5) be construed to prohibit any institute charter school from contracting with the institute for the purchase of services, including but not limited to the purchase of educational services.

**Source:** **L. 2004:** Entire part added, p. 1606, § 1, effective July 1. **L. 2007:** (2) repealed, p. 745, § 28, effective May 9. **L. 2009:** (5) amended, (SB 09-256), ch. 294, p. 1556, § 14, effective May 21. **L. 2012:** (1) amended, (SB 12-067), ch. 131, p. 452, § 7, effective August 8.



**22-30.5-509. Institute charter school application - contents.** (1) The institute charter school application is a proposed agreement upon which the institute charter applicant and the institute negotiate a charter contract. At a minimum, each institute charter school application includes:

(a) An executive summary that outlines the elements of the application and provides an overview of the proposed institute charter school;

(b) The vision and mission statements of the proposed institute charter school;

(c) The goals, objectives, and student performance standards the proposed institute charter school expects to achieve, including but not limited to the performance indicators specified in section 22-11-204 and applicable standards and goals specified in federal law;

(d) Evidence that an adequate number of parents and pupils support the formation of an institute charter school;

(e) Descriptions of the proposed institute charter school's educational program, student performance standards, and curriculum;

(f) A plan for evaluating student performance across the curriculum, which plan aligns with the proposed institute charter school's mission and educational objectives and provides a description of the proposed institute charter school's measurable annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204 and procedures for taking corrective action if student performance at the school falls below the described targets;

(g) Evidence that the plan for the proposed institute charter school is economically sound, including a proposed budget for a term of at least five years. The institute charter application shall also describe the method for obtaining an independent annual audit of the proposed institute charter school's financial statements consistent with generally accepted auditing standards and circular A-133 of the United States office of management and budget, as originally published in the federal register of June 30, 1997, and as subsequently amended.

(h) A description of the governance and operation of the proposed institute charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the proposed institute charter school, that is consistent with the standards adopted by rule of the state board pursuant to section 22-2-106 (1) (h);

(i) An explanation of the relationship that will exist between the proposed institute charter school and its employees and the proposed institute charter school's employment policies;

(j) A proposal regarding the parties' respective legal liabilities and applicable insurance coverage, which insurance coverage shall include, at a minimum, workers' compensation, liability insurance, and insurance for the proposed institute charter school's facility and its contents;

(k) The proposed institute charter school's expectations and plans for ongoing parent and community involvement;

(l) A description of the proposed institute charter school's enrollment policy, consistent with the requirements of section 22-30.5-507 (3) and rules adopted by the state board pursuant to section 22-2-106 (1) (h), and the criteria for enrollment decisions;

(m) A statement of whether the proposed institute charter school plans to address the transportation or food service needs of its students while they are attending the school. The proposed institute charter school may choose not to provide transportation or food services, may choose to develop or form a charter school collaborative as described in section 22-30.5-603 to provide transportation or food services, or may choose to negotiate with a school district, board of cooperative services, or private provider to provide transportation or food services for its students. If the proposed institute charter school chooses to provide transportation or food services, the application shall include a plan for each provided service, which plan, at a minimum, shall specifically address serving the needs of low-income and academically low-achieving students, complying with insurance and liability issues, and complying with any applicable state or federal rules or regulations.

(n) A facilities plan that details viable facilities options that are consistent with section 22-32-124 and that includes the reasonable costs of the facility, which are reflected in the proposed budget;

(o) A list of the waivers of statute and state rules that the proposed institute charter school is requesting, which list explains the rationale for each requested waiver and the manner in which the proposed institute charter school plans to meet the intent of the waived statute or rule;

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of section 22-33-106, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

(q) A plan for serving students with special needs, including budget and staff requirements, which plan shall include identifying and meeting the learning needs of at-risk students, students with disabilities, gifted and talented students, and English language learners;

(r) A dispute resolution process, as provided in section 22-30.5-107.5; and

(s) If the proposed institute charter school intends to contract with an education management provider:

(I) A summary of the performance data for all of the schools the education management provider is managing at the time of the application or has managed previously, including documentation of academic achievement and school management success;

(II) An explanation of and evidence demonstrating the education management provider's capacity for successful expansion while maintaining quality in the schools it is managing;

(III) An explanation of any existing or potential conflicts of interest between the governing board of the proposed institute charter school and the education management provider; and

(IV) A copy of the actual or proposed performance contract between the governing board for the proposed institute charter school and the education management provider that specifies, at a minimum, the following material terms:

(A) Performance evaluation measures;

(B) The methods of contract oversight and enforcement that the governing board will apply;

(C) The compensation structure and all fees that the proposed institute charter school will pay to the education management provider; and

(D) The conditions for contract renewal and termination.

**Source: L. 2004:** Entire part added, p. 1606, § 1, effective July 1. **L. 2009:** (1)(b), (1)(d), and (1)(e) amended, (SB 09-163), ch. 293, p. 1540, § 36, effective May 21. **L. 2012:** (1) R&RE, (SB 12-061), ch. 109, p. 379, § 5, effective April 13.

### **22-30.5-510. Institute charter school application - process - rule-making.**

(1) (a) Except as otherwise provided in section 22-30.5-506 (2), the institute shall receive and review all applications for institute charter schools. An application for an institute charter school may be submitted by one or more individuals, by a nonprofit, governmental, or other entity or organization, or by an existing charter school authorized by a district. An entity applying for an institute charter school shall file an application with the institute by a date determined by rule of the institute board to be eligible for consideration for the following school year. An application is considered filed when the institute receives the institute charter application from the institute charter applicant either in hard copy or electronically. Prior to any change in the application deadline, the institute shall notify each known institute charter school applicant of the proposed change by certified letter. Within fifteen days after receiving an institute charter school application, the institute shall determine whether the application contains the minimum components specified in section 22-30.5-509 (1) and is therefore complete. If the application is not complete, the institute shall notify the applicant within the fifteen-day period and provide a list of the information



required to complete the institute charter application. The applicant has fifteen days after the date it receives the notice to provide the required information to the institute for review. The institute is not required to take action on the institute charter application if the applicant does not provide the required information within the fifteen-day period. The institute may request additional information during the review period and provide reasonable time for the applicant to respond. The institute may, but is not required to, accept any additional information the applicant provides that the institute does not request.

(a.3) An application to convert an existing charter school authorized by a school district to an institute charter school shall include evidence that an adequate number of parents, teachers, or pupils or any combination thereof support the conversion to an institute charter school.

(a.5) The institute's approval of an application from an existing charter school shall not relieve the charter school of any preexisting contractual obligations or relationships, including obligations of the charter school to the school district that oversees the charter school; except that the charter school shall no longer be subject to the oversight and control of the school district. The transfer of oversight of a charter school from a school district to the institute shall not be deemed a dissolution or other event that empowers or obligates the school district to wind down the charter school's affairs or to dispose of the charter school's assets.

(b) The institute board shall set forth by rule all necessary procedures for the application process and for application review by the institute and the institute board. The rules shall describe a rigorous review of the application that includes, but is not necessarily limited to, the following key evaluative areas involving the institute charter school:

(I) The number of at-risk students that the institute charter school anticipates serving, both as an absolute number and as a percentage of the entire student body expected to enroll at the institute charter school;

(II) Curriculum and instructional program;

(III) Nonacademic program characteristics;

(IV) Financial viability;

(V) Appropriate governance model and proposed practices;

(VI) Appropriate, consistent, clear, and measurable accountability systems;

(VII) The extent to which the instructional program fits the mission statement of the institute charter school;

(VIII) Whether the institute charter school will provide an educational option that substantially differs from the educational opportunities provided by existing schools of the school district that have capacity to accommodate additional students;

(IX) The institute charter school's plan for outreach and recruitment of students whose race, gender, and ethnicity reflect the demographics of the community that the institute charter school intends to serve; and

(X) The institute charter school's plan for identifying and reducing the academic achievement gaps among its student population.

(c) The rules described in paragraph (b) of this subsection (1) shall require the applicant to provide written notification of the application to the school district board of education and the school district accountability committee of the school district in which the proposed institute charter school is to be located. The rules shall permit the board of education and the accountability committee to submit to the institute written comments concerning the institute charter school application.

(d) When the institute determines that it has received a complete application for an institute charter school, the institute shall send notice to the local board of education and the school district accountability committee for the school district in which the proposed institute charter school is to be located. At a minimum, the notice shall include the following information:

(I) The schedule by which the institute will review the application and determine whether to authorize the institute charter school;

(II) The dates and locations of meetings at which the institute will consider the application, including at least one meeting within the school district;

(III) Instructions specifying how the local board may request information from the institute regarding:

(A) The location of the proposed institute charter school, if known; and

(B) Enrollment projections for the proposed institute charter school, including the projected number of at-risk students; and

(IV) An invitation to the local board of education to send comments to the institute regarding the school district's concerns with any portion of the application, including any comments concerning whether the proposed new institute charter school substantially differs from existing educational options within the school district that have the capacity to accommodate additional students.

(2) (a) Prior to ruling on the application for an institute charter school, one or more representatives of the institute board shall hold a public meeting in the school district in which the institute charter school would be located. At the meeting, the representatives of the institute board, at a minimum, shall take public testimony regarding whether to approve or disapprove the application for an institute charter school.

(b) The institute board shall rule by resolution on the application for an institute charter school in a public hearing, following reasonable public notice, within ninety days after receiving the application filed pursuant to subsection (1) of this section. At the public hearing, prior to adopting the resolution, the institute board shall make available to persons in attendance at the hearing a written summary of the testimony received at the meeting held pursuant to paragraph (a) of this subsection (2) and, on the record, shall consider the testimony and its application to the institute board's decision.

(c) All negotiations between the institute charter school and the institute on the charter contract shall be concluded, and all terms of the charter contract agreed upon, no later than forty-five days after the institute board approves the application for an institute charter school.

(3) The institute charter school applicant and the institute may jointly waive the deadlines set forth in this section.

(4) If the institute denies an institute charter school application, it shall state its reasons for the denial. Within thirty days after the denial, the entity that submitted the institute charter school application may submit to the state board a notice of appeal, stating the grounds for the appeal.

(5) Within sixty days after receipt of a notice of appeal by the state board and after reasonable public notice, the state board shall review the decision of the institute and determine whether the decision was arbitrary and capricious. The state board shall remand the matter to the institute with instructions to approve or deny the institute charter school application. The decision of the state board shall be final and not subject to appeal.

**Source: L. 2004:** Entire part added, p. 1607, § 1, effective July 1. **L. 2008:** (1)(a), (1)(b), and (2) amended and (1)(a.3), (1)(a.5), and (1)(d) added, p. 493, § 8, effective April 17. **L. 2010:** (2)(b) amended, (SB 10-111), ch. 170, p. 603, § 9, effective August 11. **L. 2012:** (1)(a) and (2)(b) amended, (SB 12-061), ch. 109, p. 381, § 7, effective April 13.

**22-30.5-511. Institute charter schools - term - renewal of contract - grounds for nonrenewal or revocation - appeal.** (1) (a) The institute may approve a new charter contract for an institute charter school for a period of four academic years, and the institute may renew the charter contract for succeeding periods not to exceed five academic years.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1) to the contrary, an institute charter school and the institute may agree to extend the length of the charter contract beyond five academic years for the purpose of enhancing the terms of any lease or financial obligation.

(2) During the term of a charter contract, the institute shall annually review the institute charter school's performance. At a minimum, the review includes the institute charter school's progress in meeting the objectives identified in the plan the institute charter school is required to implement pursuant to section 22-11-210 and the results of the institute charter school's most recent annual financial audit. The institute shall provide to the institute charter school written feedback from the review and shall include the results of the



institute charter school's annual review in the body of evidence that the institute board takes into account in deciding whether to renew or revoke the charter contract and that supports the renegotiation of the charter contract.

(2.5) The institute shall adopt and revise as necessary procedures and timelines for the charter-renewal process, which procedures and timelines are in conformance with the requirements of this part 5. The institute shall ensure that each of the institute charter schools receives a copy of the institute's charter renewal procedures and timelines and any revisions to the procedures and timelines.

(3) The institute board may revoke or deny renewal of a charter contract if the institute board determines that the institute charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract of the institute charter school;

(b) Failed to meet or make adequate progress toward achievement of the content standards, pupil performance standards, or targets for the measures used to determine the levels of attainment of the performance indicators identified in the charter contract of the institute charter school;

(c) Was required to adopt a turnaround plan and the state board recommended pursuant to section 22-11-210 that the institute charter school be restructured;

(d) Failed to meet generally accepted standards of fiscal management; or

(e) Violated any provision of law from which the institute charter school was not specifically exempted.

(4) In addition, the institute board may deny renewal of a charter contract upon a determination by the institute board that it is not in the best interests of the pupils attending the institute charter school to continue the operation of the institute charter school.

(4.5) If an institute charter school is required to implement a turnaround plan pursuant to section 22-11-210 (2) for a second consecutive school year, the institute charter school shall present to the institute board, in addition to the turnaround plan, a summary of the changes made by the institute charter school to improve its performance, the progress made in implementing the changes, and evidence, as requested by the institute board, that the institute charter school is making sufficient improvement to attain a higher accreditation category within two school years or sooner. If the institute board finds that the institute charter school's evidence of improvement is not sufficient or if the institute charter school is required to implement a turnaround plan for a third consecutive school year, the institute board may revoke the school's charter contract.

(5) (a) At least fifteen days prior to the date on which the institute board will consider whether to revoke or renew a charter contract, the institute shall provide to the institute board and the institute charter school a written recommendation, including the reasons supporting the recommendation, concerning whether to revoke or renew the charter contract.

(b) If the institute board revokes or denies renewal of a charter contract of an institute charter school, the institute board shall state its reasons for the revocation or denial.

(6) (a) The state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of the institute board concerning the revocation or nonrenewal of an institute charter school's charter contract. An institute charter school or any other person who wishes to appeal a decision of the institute board concerning the revocation or nonrenewal of a charter contract shall provide the state board and the institute board with a notice of appeal within thirty days after the institute board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the revocation or the nonrenewal of the charter contract specified by the institute board. The notice shall include a brief statement of the reasons the person contends the institute board's revocation or nonrenewal of the charter contract was in error.

(b) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the institute charter school is located, shall review the decision of the institute board and make its findings. If the state board finds that the institute board's decision was contrary to the best interests of the pupils attending the institute charter school, the state board shall remand such final decision to the

institute board with instructions to renew or reinstate the charter contract of the institute charter school. The decision of the state board shall be final and not subject to appeal.

(7) The institute shall adopt procedures for closing an institute charter school following revocation or nonrenewal of the institute charter school's charter contract. At a minimum, the procedures shall ensure that:

(a) When practicable and in the best interest of the students of the institute charter school, the institute charter school continues to operate through the end of the school year. If the institute determines it is necessary to close the institute charter school prior to the end of the school year, the institute shall work with the institute charter school to determine an earlier closure date.

(b) The institute works with the parents of the students who are enrolled in the institute charter school when the charter contract is revoked or not renewed to ensure that the students are enrolled in schools that meet their educational needs; and

(c) The institute charter school meets its financial, legal, and reporting obligations during the period that the institute charter school is concluding operations.

(8) Notwithstanding any provision of this section to the contrary, on and after September 1, 2012, the institute shall not renew a charter contract to which a for-profit entity is a party.

**Source: L. 2004:** Entire part added, p. 1609, § 1, effective July 1. **L. 2006:** (3)(c) amended, p. 403, § 3, effective April 6. **L. 2009:** (2), (3)(b), and (3)(c) amended, (SB 09-163), ch. 293, p. 1540, § 37, effective May 21. **L. 2012:** Entire section amended, (SB 12-061), ch. 109, p. 382, § 8, effective April 13; (8) added, (SB 12-067), ch. 131, p. 452, § 8, effective August 8.

### **22-30.5-511.3. Nonrenewal or revocation - qualified charter school - exceptions.**

(1) Notwithstanding the provisions of section 22-30.5-511, the provisions of this section shall apply if:

(a) The institute board determines that the charter of a qualified charter school, as defined in section 22-30.5-408 (1) (c), will be revoked or will not be renewed; and

(b) The qualified charter school has financed capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., pursuant to section 22-30.5-407.

(2) (a) If the institute board makes a determination to revoke or not renew the charter of a qualified charter school and subsection (1) of this section applies, the institute board shall notify the state treasurer and the commissioner of education immediately upon such determination. Upon receipt of such notice, the commissioner shall suspend the revocation or nonrenewal of the charter until such time as the state treasurer, the commissioner, and the Colorado educational and cultural facilities authority determine, with the institute board and the qualified charter school, whether an alternative exists to such revocation or nonrenewal of the charter.

(b) The institute board shall not be required to suspend a revocation or nonrenewal of a charter pursuant to paragraph (a) of this subsection (2) for more than one hundred twenty days after the date that the commissioner of education and the state treasurer received notice of the determination to revoke or not renew the charter pursuant to paragraph (a) of this subsection (2) or sixty days after the action of the state board pursuant to section 22-30.5-511 (5) (b) (II), whichever is later.

(3) The state treasurer, commissioner of education, institute board, charter school, and Colorado educational and cultural facilities authority may pursue the following:

(a) The conversion of the qualified charter school from an institute charter school to a school of the accounting district of the institute charter school, as defined in section 22-30.5-513 (1) (a);

(b) The reorganization of the qualified charter school and application to the institute board or the local board of education of the accounting district for approval as a charter school with the condition that the newly approved charter school will assume the bond obligations of the former qualified charter school pursuant to section 22-30.5-407; or



(c) Any other alternative deemed feasible by the state treasurer, the commissioner of education, the Colorado educational and cultural facilities authority, the institute board, and the qualified charter school.

(4) Nothing in this section shall be construed to prevent the institute board from revoking or not renewing the charter of a qualified charter school pursuant to section 22-30.5-511.

**Source: L. 2011:** Entire section added, (SB 11-188), ch. 186, p. 715, § 7, effective July 1.

**22-30.5-511.5. Background investigation - prohibition against employing persons - institute charter school employees' information provided to department.** (1) An institute charter school shall conduct a background investigation, including a fingerprint-based criminal history record check, as described in sections 22-30.5-110.5 and 22-30.5-110.7, of an applicant to whom an offer of employment is extended by the institute charter school to determine whether the applicant is suitable to work in an environment with children. An applicant who applies for a position of employment with an institute charter school shall submit to a background investigation, including a fingerprint-based criminal history record check, as described in sections 22-30.5-110.5 and 22-30.5-110.7.

(2) When an institute charter school finds good cause to believe that a person employed by the institute charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction subsequent to such employment, the institute charter school shall require the person to submit to the institute charter school a complete set of his or her fingerprints for a fingerprint-based criminal history record check as described in section 22-30.5-110.7 (6).

(2.5) An employee or an applicant for employment with an institute charter school is disqualified from employment if the results of a fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in section 22-32-109.8 (6.5). Nothing in this section or in section 22-32-109.8 shall create for a person a property right in or entitlement to employment or continued employment with an institute charter school or impair an institute charter school's right to terminate employment for a nondiscriminatory reason.

(3) Each institute charter school shall comply with the reporting requirements specified in section 22-30.5-110.5.

**Source: L. 2008:** Entire section added, p. 1664, § 4, effective May 29. **L. 2011:** (2.5) added, (HB 11-1121), ch. 242, p. 1055, § 3, effective August 10.

**Cross references:** In 2011, subsection (2.5) was added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-30.5-512. Institute charter schools - employee retirement funds.** A local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by an institute charter school who seek to return to employment with public schools in the school district. Employees of an institute charter school shall be members of the public employees' retirement association. The institute charter school and the employee shall contribute the appropriate respective amounts as required by the funds of such association.

**Source: L. 2004:** Entire part added, p. 1610, § 1, effective July 1.

**22-30.5-513. Institute charter schools - definitions - funding - at-risk supplemental aid - legislative declaration.** (1) As used in this section, unless the context otherwise requires:

(a) "Accounting district" means the school district within whose geographic boundaries an institute charter school is physically located.

(b) "Accounting district's adjusted per pupil revenues" means the accounting district's per pupil funding plus the accounting district's at-risk per pupil funding.

(c) "Accounting district's at-risk funding" means the amount of funding for at-risk pupils in the accounting district determined in accordance with the formulas described in section 22-54-104 (4).

(d) "Accounting district's at-risk per pupil funding" means the amount of funding determined in accordance with the following formula:

(The accounting district's at-risk funding divided by the accounting district's funded pupil count) x (the institute charter school's percentage of at-risk pupils divided by the accounting district's percentage of at-risk pupils).

(e) "Accounting district's funded pupil count" shall have the same meaning as the term "district funded pupil count" defined in section 22-54-103 (7).

(f) "Accounting district's per pupil funding" means the per pupil funding calculated for the accounting district pursuant to the formula described in section 22-54-104 (3).

(g) "Accounting district's per pupil on-line funding" means on-line funding, as specified in section 22-54-104 (4.5), for any budget year divided by the on-line pupil enrollment.

(h) "Administrative overhead costs" means all actual and reasonable costs incurred by the institute as a result of its performance of its obligations pursuant to this part 5. "Administrative overhead costs" shall not include any costs incurred in order to deliver services that an institute charter school may purchase at its discretion.

(i) "At-risk pupils" shall have the same meaning as provided in section 22-54-103 (1.5).

(j) "On-line pupil enrollment" means:

(I) Repealed.

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district on-line school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title by the institute charter school.

(k) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(l) "Qualified charter school" shall have the same meaning as provided in section 22-54-124 (1) (f.6).

(2) (a) As part of the charter contract, the institute charter school and the institute shall agree on funding and any services to be provided by the institute or by other parties to the institute charter school.

(b) For budget year 2004-05 and budget years thereafter, each institute charter school and the institute shall negotiate funding under the charter contract at a minimum of ninety-five percent of the institute charter school's accounting district's adjusted per pupil revenues for each pupil enrolled in the institute charter school who is not an on-line pupil and ninety-five percent of the institute charter school's accounting district's per pupil on-line funding for each on-line pupil enrolled in the institute charter school. The institute may retain three percent of the accounting district's adjusted per pupil revenues for each pupil, who is not an on-line pupil, enrolled in the institute charter school and three percent of the accounting district's per pupil on-line funding for each on-line pupil enrolled in the institute charter school.

(b.5) If an institute charter school operates a full-day kindergarten program, for purposes of calculating the institute charter school's funding pursuant to this subsection (2), the number of pupils enrolled in the institute's charter school shall include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(c) Each institute charter school shall pay an amount equal to the per pupil cost incurred by the institute in providing federally required educational services, multiplied by the number of students enrolled in the institute charter school. At either party's request, the institute charter school and the institute may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the institute's total budget for providing federally required educational services.



The reserve shall only be used by the institute to offset excess costs of providing services to students with disabilities enrolled in any institute charter school.

(d) (I) Within ninety days after the end of each fiscal year, the institute shall provide to each institute charter school an itemized accounting of all the institute's administrative overhead costs.

(II) Within ninety days after the end of each fiscal year, the institute shall provide to each institute charter school an itemized accounting of all the actual costs of any additional services the institute charter school chose at its discretion to purchase as provided in paragraph (b) of subsection (4) of this section. Any difference between the amount initially charged to the institute charter school and the actual cost shall be reconciled and paid to the owed party.

(3) (a) On or before November 10 of each year, the institute shall certify to the state board each institute charter school's pupil enrollment and on-line pupil enrollment for that year. In certifying the pupil enrollment of each institute charter school to the state board, the institute shall specify the number of pupils enrolled in half-day kindergarten; the number of pupils enrolled in full-day kindergarten; the number of pupils enrolled in first grade through twelfth grade, specifying those who are enrolled as full-time students and those who are enrolled as less than full-time students; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils receiving educational programs under the "Exceptional Children's Educational Act", article 20 of this title; and the number of at-risk pupils. The institute shall also notify the department as to whether each institute charter school is a qualified charter school.

(b) For purposes of the "Public School Finance Act of 1994", article 54 of this title, the department shall add the pupils enrolled in an institute charter school to the funded pupil count and the on-line pupil enrollment of the institute charter school's accounting district.

(4) (a) (I) For each institute charter school, the department shall withhold from the state equalization payments of the institute charter school's accounting district an amount equal to one hundred percent of the accounting district's adjusted per pupil revenues multiplied by the number of pupils enrolled in the institute charter school who are not on-line pupils plus an amount equal to one hundred percent of the accounting district's per pupil on-line funding multiplied by the number of on-line pupils enrolled in the institute charter school. The department shall forward to the institute the amount withheld minus an amount not to exceed one percent of the amount withheld that the department may retain as reimbursement for the reasonable and necessary costs to the department to implement the provisions of this part 5.

(I.5) The institute shall forward to each institute charter school an amount equal to the institute charter school's pupil enrollment multiplied by the accounting district's adjusted per pupil revenues of the institute charter school's accounting district, minus:

(A) The amount withheld not to exceed one percent retained by the department pursuant to subparagraph (I) of this paragraph (a);

(B) An amount equal to one percent of the amount calculated for the institute charter school pursuant to subparagraph (I) of this paragraph (a), which amount the institute shall transfer to the state treasurer for credit to the institute charter school assistance fund created in section 22-30.5-515.5;

(C) Any amount agreed to by the institute and the institute charter school for repayment of a loan to the institute charter school from the institute charter school assistance fund created in section 22-30.5-515.5;

(D) Any amount withheld pursuant to section 22-30.5-406 for the direct payments made by the state treasurer of principal and interest due on bonds issued on behalf of the institute charter school by a governmental entity for the purpose of financing institute charter school capital construction;

(E) An amount equal to three percent of the amount calculated for the institute charter school pursuant to subparagraph (I) of this paragraph (a), which amount shall be credited to the account created pursuant to section 22-30.5-506 (4) and used to offset administrative overhead costs; and

(F) The amount agreed to in the institute charter contract for any additional services, as provided in paragraph (b) of this subsection (4).

(II) Repealed.

(b) As part of the institute charter school contract, the institute charter school and the institute board shall agree on the services, other than necessary administration, oversight, and management services, to be provided to the institute charter school by any third party with which the institute or institute charter school contracts and the costs of the services.

(c) For budget years 2004-05 through 2010-11, the amount of funding specified in paragraph (a) of this subsection (4) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by school districts as required by section 17 of article IX of the state constitution.

(d) Notwithstanding the provisions of sub-subparagraph (B) of subparagraph (I.5) of paragraph (a) of this subsection (4), for any budget year in which the total amount of total program funding, including funding for institute charter schools, is reduced pursuant to section 22-54-104 (5) (g), the institute shall not withhold from an institute charter school the amount specified in sub-subparagraph (B) of subparagraph (I.5) of paragraph (a) of this subsection (4).

(4.5) (a) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate to the charter school institute the amount calculated for at-risk supplemental aid pursuant to paragraph (b) of this subsection (4.5) for each institute charter school whose percentage of at-risk pupils is less than the percentage of at-risk pupils in the accounting district. At-risk supplemental aid is additional funding and does not supplant any other funding allocated pursuant to this section. The charter school institute shall pass through one hundred percent of an institute charter school's at-risk supplemental aid to the institute charter school.

(b) The institute charter school's at-risk supplemental aid is equal to one-half of the difference between one hundred percent of the accounting district's per pupil revenues and one hundred percent of the accounting district's adjusted per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program.

(c) For purposes of this subsection (4.5), unless the context otherwise requires, "accounting district's per pupil revenues" has the same meaning as the term "district per pupil revenues" defined in section 22-30.5-112.

(d) If the appropriation to the charter school institute is insufficient to fund one hundred percent of the at-risk supplemental aid calculated pursuant to this subsection (4.5), the charter school institute shall reduce each institute charter school's at-risk supplemental aid proportionately.

(5) (Deleted by amendment, L. 2009, (SB 09-089), ch. 440, p. 2435, § 4, effective June 4, 2009.)

(6) (a) The governing body of an institute charter school is authorized to accept gifts, donations, or grants of any kind made to the institute charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the charter contract between the institute charter school and the institute.

(b) Moneys received by an institute charter school from any source and remaining in the institute charter school's accounts at the end of a budget year shall remain in the institute charter school's accounts for use by the institute charter school during subsequent budget years and shall not revert to the state. Moneys remaining in the institute charter school's accounts upon revocation or nonrenewal of the charter contract shall revert to the institute; except that any gifts shall be disposed of in accordance with any conditions prescribed by the donor that are not contrary to law.

(7) and (8) Repealed.

(9) (a) For the 2004-05 budget year, and for each budget year thereafter, the proportionate share of moneys generated under federal or state categorical aid programs shall be directed to institute charter schools serving students eligible for such aid.

(b) Each institute charter school that receives federal or state categorical aid shall comply with all applicable federal and state reporting requirements to receive such aid.



(10) (a) On or before December 1, 2009, and on or before December 1 each year thereafter, a representative from the governing board of each institute charter school and the institute board shall meet to review the level of funding received by the institute as a result of the moneys withheld by the institute for the amount of actual costs incurred by the institute in providing necessary administration, oversight, and management services to the institute charter schools. The institute charter school representatives and the institute board shall, at a minimum, review, for each budget year beginning with the 2004-05 budget year, the amount of moneys annually appropriated to the institute, the amount of costs incurred by the institute, and the services provided by the institute.

(b) On or before January 15, 2010, and on or before January 15 each year thereafter, the institute board shall submit to the education committees of the senate and the house of representatives, or any successor committees, the findings of the review described in paragraph (a) of this subsection (10) and any recommendations for legislative changes regarding the operations of the institute.

(c) The provisions of this subsection (10) shall not be interpreted as limiting the authority of the institute or the institute board in making decisions concerning operations of the institute or the use of institute moneys.

**Source:** **L. 2004:** Entire part added, p. 1611, § 1, effective July 1. **L. 2006:** (1) R&RE, (2)(b) and (4)(a) amended, and (7) and (8) repealed, pp. 572, 573, 574, §§ 1, 3, 4, effective April 24. **L. 2007:** (1)(g) amended, p. 744, § 25, effective May 9; (1)(g) and (1)(j) amended, pp. 1091, 1086, §§ 21, 9, effective July 1. **L. 2009:** (4)(a) and (5) amended and (10) added, (SB 09-089), ch. 440, p. 2435, § 4, effective June 4; (1)(j)(I) repealed, (SB 09-292), ch. 369, p. 1962, § 59, effective August 5. **L. 2010:** (4)(a)(1.5)(B) and (4)(a)(1.5)(C) amended and (4)(d) added, (SB 10-111), ch. 170, pp. 602, 604, §§ 7, 14, effective August 11. **L. 2012:** (1)(j)(II) amended, (HB 12-1090), ch. 44, p. 151, § 9, effective March 22; (2)(b), (2)(d)(I), and (4)(a)(1.5)(E) amended, (SB 12-121), ch. 177, p. 640, § 9, effective May 11; (4.5) added, (HB 12-1345), ch. 188, p. 723, § 9, effective May 19; (1)(j)(II) amended and (2)(b.5) added, (HB 12-1240), ch. 258, pp. 1317, 1311, §§ 32, 12, effective June 4.

**Editor's note:** (1) Amendments to subsection (1)(g) by Senate Bill 07-199 and Senate Bill 07-215 were harmonized.

(2) Subsection (4)(a)(II)(B) provided for the repeal of subsection (4)(a)(II), effective July 1, 2008. (See L. 2006, p. 573.)

(3) Amendments to (1)(j)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.5-514. Institute charter school - capital reserve, risk management, and instructional purposes.** (1) For the 2004-05 budget year through the 2008-09 budget year, each institute charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2) (b), multiplied by the number of students enrolled in the institute charter school who are not students enrolled in an on-line program or on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to a fund created by the institute charter school for capital reserve purposes, as set forth in section 22-45-103 (1) (c) and (1) (e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the institute charter school for any other purpose. Any moneys remaining in the fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) in the 2009-10 budget year or any budget year thereafter.

(2) For the 2004-05 budget year through the 2008-09 budget year, each institute charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (1) (b), multiplied by the number of students enrolled in the institute charter school who are not students enrolled in an on-line program or on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to accounts created by the institute charter school for instructional supplies and materials, instructional capital outlays, or other

instructional purposes, as set forth in section 22-45-103 (1) (a) (II), or among such accounts. Moneys may be transferred among the three accounts. The moneys in the accounts shall be used for the purposes set forth in section 22-45-103 (1) (a) (II) and may not be expended by the institute charter school for any other purpose. Any moneys in the accounts that are not projected to be expended during a budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (a) (II) in the next budget year. Nothing in this subsection (2) shall be construed to require that interest on moneys in the accounts be specifically allocated to the accounts. Any moneys remaining in the accounts that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (a) (II) in the 2009-10 budget year or any budget year thereafter.

**Source:** **L. 2004:** Entire part added, p. 1616, § 1, effective July 1. **L. 2007:** (1) and (2) amended, p. 1091, § 22, effective July 1. **L. 2009:** Entire section amended, (SB 09-256), ch. 294, p. 1556, § 15, effective May 21. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1318, § 33, effective June 4.

**22-30.5-515. Institute charter school - additional aid.** (1) (a) For the 2004-05 budget year and each budget year thereafter, a qualified charter school, as that term is defined in section 22-54-124, that is an institute charter school shall receive state education fund moneys from the department in an amount equal to the percentage of the total qualified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the institute charter school multiplied by the total amount of state education fund moneys distributed for the same budget year pursuant to section 22-54-124 (3).

(b) As used in this subsection (1), “pupils” means pupils other than pupils enrolled in an on-line program or on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), who are enrolled in a qualified charter school.

(2) Funding received pursuant to subsection (1) of this section shall be in addition to any funding provided pursuant to section 22-30.5-513.

(3) The department shall provide funding to each qualified charter school that is an institute charter school by making a monthly payment to the institute as soon as possible after the department receives a monthly payment of state education fund moneys pursuant to section 22-54-124. The institute shall promptly remit the appropriate amount to each eligible institute charter school and shall not withhold any portion of the amount.

(4) An institute charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1) (a).

**Source:** **L. 2004:** Entire part added, p. 1617, § 1, effective July 1. **L. 2007:** (1)(b) amended, p. 1091, § 23, effective July 1. **L. 2010:** (3) amended, (HB 10-1013), ch. 399, p. 1896, § 2, effective June 10. **L. 2012:** (1)(b) amended, (HB 12-1240), ch. 258, p. 1318, § 34, effective June 4.

**22-30.5-515.5. Institute charter school assistance fund - created - grants - loans - rules.** (1) (a) There is hereby created in the state treasury the institute charter school assistance fund, referred to in this section as the “fund”, that shall consist of one percent of the per pupil funding for institute charter schools that the state charter school institute withholds pursuant to section 22-30.5-513 (4) (a) (1.5) (B). The moneys in the fund shall be subject to annual appropriation by the general assembly to the institute for the direct and indirect costs associated with awarding grants and interest-free loans pursuant to this section to assist institute charter schools in meeting capital construction needs, including but not limited to obtaining financial assistance for capital construction through the “Building Excellent Schools Today Act”, article 43.7 of this title or repaying bonds issued by the Colorado educational and cultural facilities authority, created in section 23-15-104, C.R.S., for construction of institute charter school buildings, or in addressing other facility or special education services funding emergencies, as defined by rule of the institute board.

(b) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the



investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) An institute charter school that seeks a grant or an interest-free loan pursuant to this section shall submit to the state charter school institute, in accordance with the timelines and procedures adopted by rule of the institute board, an application that includes, at a minimum:

(a) For an institute charter school that seeks a grant or an interest-free loan to use as matching moneys to obtain financial assistance for capital construction through the “Building Excellent Schools Today Act”, article 43.7 of this title:

(I) Evidence that the institute charter school meets the definition of a “charter school” specified in section 22-43.7-103 (7);

(II) A copy of the application that the institute charter school has submitted or is preparing to submit to the public school capital construction assistance board pursuant to section 22-43.7-109;

(III) An estimate of the amount of matching moneys, as defined in section 22-43.7-103 (11), that the public school capital construction assistance board will require, if known; and

(IV) Information concerning any other sources of funding available to the institute charter school;

(b) For an institute charter school that seeks a grant or an interest-free loan to use in repaying bonds or notes issued on the institute charter school’s behalf by the Colorado educational and cultural facilities authority pursuant to article 15 of title 23, C.R.S.:

(I) Copies of the documents the institute charter school has submitted or will submit to the Colorado educational and cultural facilities authority to request issuance of the bonds or notes;

(II) The amount of bonds or notes issued or to be issued and the total amount the institute charter school is required to repay; and

(III) Information concerning any other source of funding available to the institute charter school;

(c) For an institute charter school that seeks a grant or an interest-free loan to assist in meeting other capital construction costs:

(I) A description of the institute charter school’s capital construction needs;

(II) A description of the capital construction project the institute charter school has undertaken or will undertake to meet its needs, including the estimated cost to complete the project; and

(III) Information concerning any other source of funding available to the institute charter school; and

(d) For an institute charter school that seeks a grant or an interest-free loan to assist in addressing a facility or special education services funding emergency:

(I) A description of the institute charter school’s emergency and how it relates to its facility or other capital asset, if applicable;

(II) A description of the capital construction needed to remedy the emergency if it is a facility emergency;

(III) A description of the special education services required by the individualized education program for the student at issue if it is a special education funding emergency; and

(IV) A description of when the funding is needed.

(3) The state charter school institute shall review each application received pursuant to subsection (2) of this section and shall recommend to the institute board those institute charter schools that should receive moneys pursuant to this section, whether the moneys should be awarded in the form of grants or interest-free loans, and the amounts of the grants or interest-free loans. In making its recommendations, the institute shall apply criteria adopted by rule of the institute board, which criteria shall prioritize applications based on the applicant’s level of economic need and the viability and merit of the capital construction project.

(4) (a) The institute board shall consider the state charter school institute’s recommendations and award grants and interest-free loans pursuant to this section to assist institute

charter schools based on the level of economic need demonstrated by an applicant and the viability and merit of the capital construction project proposed in the application.

(b) If the institute board awards an interest-free loan to an institute charter school pursuant to this section, it shall set the terms of repayment with the institute charter school.

(c) The state charter school institute shall not pay a grant or an interest-free loan awarded pursuant to this section for use as matching moneys to obtain financial assistance for capital construction through the “Building Excellent Schools Today Act”, article 43.7 of this title, until the recipient institute charter school provides proof that the public school capital construction assistance board has selected it to receive financial assistance pursuant to article 43.7 of this title.

(d) The state charter school institute shall not pay a grant or an interest-free loan awarded pursuant to this section for use in repaying bonds or notes issued by the Colorado educational and cultural facilities authority until the recipient institute charter school provides proof that the bonds or notes have been issued on the institute charter school’s behalf.

(5) The institute board shall promulgate rules pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., for the implementation of this section, including but not limited to rules specifying any information to be included in an application in addition to the information specified in subsection (2) of this section.

(6) Nothing in this section shall be interpreted as creating an entitlement in an institute charter school for receipt of a grant or an interest-free loan from the fund, but awards of grants and interest-free loans shall be at the sole discretion of the institute board.

**Source: L. 2009:** Entire section added, (SB 09-089), ch. 440, p. 2437, § 5, effective June 4. **L. 2010:** (1)(a), (2)(b)(III), and (2)(c)(III) amended and (2)(d) added, (SB 10-111), ch. 170, p. 601, § 5, effective August 11.

**22-30.5-516. Notice of precollegiate admission guidelines - report to Colorado commission on higher education.** (1) The state charter school institute board shall adopt a policy on or before October 1, 2005, to:

(a) Provide on or before December 31 of each school year the names and mailing addresses of students enrolled in the eighth grade in institute charter schools to the Colorado commission on higher education for use in mailing the notice of postsecondary educational opportunities and higher education admission guidelines as required in section 23-1-119.1, C.R.S.

(b) Include a provision in any contract entered into by an institute charter school with a college preparation program that the college preparation program shall provide to the Colorado commission on higher education, on or before December 31 of each school year, a report specifying each student, by unique identifying number, to the extent permissible by federal law, who was enrolled in the program during the previous school year; who completed the program during the previous school year; and who enrolled in an institution of higher education within six months after completing the program. The provisions of this paragraph (b) shall apply to contracts entered into or renewed on or after August 10, 2005.

**Source: L. 2005:** Entire section added, p. 446, § 3, effective August 8.

**22-30.5-517. Institute charter school nutritional beverage policy.** (1) On or before July 1, 2009, the state charter school institute shall adopt and implement a policy that prohibits, except as described in subsection (2) of this section, an institute charter school from permitting the sale of beverages to students from any source, including but not limited to:

- (a) School cafeterias;
- (b) Vending machines;
- (c) School stores; and
- (d) Fund-raising activities conducted on school campuses.



(2) (a) On or before November 15, 2008, the institute board shall promulgate rules describing beverages that institute charter schools may permit to be sold to students. Each beverage described by the rules shall satisfy minimum nutritional standards for beverages, which standards are science-based and established by a national organization that:

(I) Establishes and promotes minimum nutritional standards for beverages served to students in schools; and

(II) Has set forth a memorandum of understanding between various interested entities, including representatives of the beverage industry, which memorandum of understanding sets forth guidelines for policies concerning beverages that school districts and schools may permit to be sold to students.

(b) On or before November 15, 2008, the institute board shall promulgate rules describing specific events occurring outside of the regular and extended school day, including but not limited to extracurricular competitions and performances, at which an institute charter school may permit to be sold to students beverages other than the beverages described by the rules promulgated by the institute board pursuant to paragraph (a) of this subsection (2).

(3) (a) The policy adopted by the state charter school institute pursuant to subsection (1) of this section shall apply to all beverages sold on institute charter school campuses during regular and extended school days.

(b) For the purposes of this subsection (3), “extended school day” means the regular hours of operation for an institute charter school plus any time spent by students after such regular hours of operation for any purpose, including but not limited to participation in extracurricular activities or childcare programs.

(4) The provisions of this section shall apply to contracts entered into or renewed by the state charter school institute or an institute charter school on or after July 1, 2009.

**Source: L. 2008:** Entire section added, p. 643, § 6, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-30.5-518. Institute charter school food allergy and anaphylaxis management policy required.** (1) On or before July 1, 2010, the state charter school institute shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in institute charter schools. The policy shall include, at a minimum, measures that satisfy the rules promulgated by the state board pursuant to section 22-2-135.

(2) (a) The policy adopted by the state charter school institute pursuant to subsection (1) of this section shall ensure that, prior to the beginning of each school year, each institute charter school provide notice to a parent or legal guardian of each student enrolled in the institute charter school of the policy. The notice shall include the standard form developed by the department of public health and environment pursuant to section 25-1.5-109, C.R.S., to allow the parent or legal guardian of a student with a known food allergy to provide to the institute charter school’s administration the information that is described in section 22-2-135 (3) (b).

(b) The notice required by paragraph (a) of this subsection (2) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student’s school a supply of the medication.

**Source: L. 2009:** Entire section added, (SB 09-226), ch. 245, p. 1105, § 4, effective August 5. **L. 2011:** (2)(b) amended, (SB 11-012), ch. 62, p. 163, § 4, effective March 25.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-30.5-519. Institute charter school standardized immunization information policy.** On or before July 1, 2011, the state charter school institute shall annually provide to the

parent or legal guardian of each student enrolled in the institute charter school the standardized immunization document developed by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For purposes of this section, an institute charter school shall have the discretion to determine the method of distribution of the standardized immunization document, including but not limited to providing a copy to parents and legal guardians, providing the standardized immunization document in a newsletter or handbook, or providing to parents and legal guardians an electronic copy of the standardized immunization document. For purposes of this section, solely posting a copy of the standardized immunization document on a web site or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, the institute is encouraged to post a copy of the standardized immunization document on its web site.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 191, § 2, effective August 11.

**22-30.5-520. Parent involvement - policy - communications - incentives.** (1) The state charter school institute board is encouraged to adopt a policy for increasing and supporting parent involvement in institute charter schools. In adopting the policy, the institute board may take into account, but need not be limited to, the best practices and strategies identified pursuant to section 22-7-304 by the Colorado state advisory council for parent involvement in education and the national standards for family-school partnerships, as defined in section 22-7-302 (5).

(2) If the state board of education, pursuant to section 22-11-210, determines that an institute charter school is required to adopt and implement a school improvement plan as described in section 22-11-404, a school priority improvement plan as described in section 22-11-405, or a school turnaround plan as described in section 22-11-406, the institute charter school, within thirty days after receiving the initial notice of the determination or, if the determination is appealed, the final notice of the determination, shall notify the parents of the students enrolled in the school of the required plan and the issues identified by the department of education as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the date, time, and location of a public hearing to be held by the institute charter school or the institute, whichever is responsible for adopting the plan, to review the required plan prior to final adoption. At the public hearing, the institute charter school principal or the institute shall also review the institute charter school's progress in implementing its plan for the preceding year and in improving its performance. The date of the public hearing shall be at least thirty days after the date on which the institute charter school provides the written notice.

(3) The institute board may solicit, accept, and expend public or private gifts, grants, or donations to implement all or a portion of the parent involvement programs implemented under a policy adopted pursuant to this section.

**Source: L. 2011:** Entire section added, (HB 11-1126), ch. 118, p. 369, § 2, effective August 10.

**22-30.5-521. Institute charter schools - school bullying policies required.** On or before October 1, 2011, each institute charter school shall implement the policy of the institute concerning bullying prevention and education, which policy is adopted by the institute pursuant to section 22-30.5-505 (19).

**Source: L. 2011:** Entire section added, (HB 11-1254), ch. 173, p. 654, § 6, effective May 13.

**22-30.5-522. Restorative justice practices.** The state charter school institute is encouraged to develop and utilize restorative justice practices, as defined in section 22-32-144 (3), that are part of the disciplinary program of each institute charter school.



**Source: L. 2011:** Entire section added, (HB 11-1032), ch. 296, p. 1408, § 18, effective August 10.

**22-30.5-523. Intervention strategies - students at risk of dropping out.** (1) Each institute charter school that includes any of grades six through nine shall consider adopting procedures to review the relevant data for students in those grades and identify students who are demonstrating behaviors that indicate the student is at greater risk of dropping out of school. The behaviors may include, but need not be limited to, low academic achievement, truancy, insubordinate behavior, and disengagement.

(2) The procedures may specify that, after an institute charter school identifies a student as being at increased risk of dropping out of school, the school shall provide appropriate interventions that are designed to assist the student in improving his or her academic performance and behavior and in increasing his or her overall level of engagement in school. Interventions may include, but need not be limited to, counseling, tutoring, parent engagement, and developmental education services.

(3) If an institute charter school adopts procedures pursuant to this section, the institute charter school shall notify a student's parents as soon as possible after the institute charter school identifies the student as being at greater risk of dropping out of school. The institute charter school shall provide to the student's parents a description of the interventions that the institute charter school intends to implement for the student, if any. The parent may approve or reject the described interventions. If the parent rejects the interventions, the institute charter school shall not implement the interventions. The parent may terminate the interventions at any time after the institute charter school begins providing the interventions.

(4) A parent may contact the institute charter school in which his or her student is enrolled to request interventions pursuant to this section if the parent determines that the student is at greater risk of dropping out of school.

**Source: L. 2012:** Entire section added, (HB 12-1013), ch. 23, p. 60, § 2, effective August 8.

**22-30.5-524. Institute charter schools - children's nutrition - no trans fats in school foods - definitions - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Extended school day" means the school day, plus any additional time that a student spends on school grounds before or after the school day for the purpose of participating in a school-sanctioned extracurricular activity or child care program.

(b) "Industrially produced trans fat" means vegetable shortening, margarine, or any type of partially hydrogenated vegetable oil that contains more than zero grams of trans fat per serving.

(c) "School day" has the same meaning as set forth in section 22-32-136.

(2) On and after September 1, 2013, neither the state charter school institute nor any institute charter school shall:

(a) Make available to a student any food that contains any amount of industrially produced trans fat; or

(b) Use a food that contains any amount of industrially produced trans fat in the preparation of a food item that is intended for consumption by a student.

(3) The prohibition described in subsection (2) of this section applies to all food and beverages made available to a student on school grounds during each school day and extended school day, including but not limited to any food or beverage item made available to a student in a school cafeteria, school store, vending machine, or other food service entity existing upon school grounds.

(4) The prohibition described in subsection (2) of this section does not apply to:

(a) Any food or beverage that is made available to a student as part of a meal program of the United States department of agriculture;

(b) Any food or beverage that is made available to a student as part of a fundraising effort conducted by one or more students, teachers, or parents; or

(c) Any food or beverage that is donated to the school to be given to a student for consumption off of school premises and not during the school day.

(5) The state charter school institute may promulgate such rules as are necessary for the administration of this section.

**Source: L. 2012:** Entire section added, (SB 12-068), ch. 256, p. 1303, § 3, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 256, Session Laws of Colorado 2012.

**22-30.5-525. Individual career and academic plans.** (1) Each institute charter school shall assist each student and his or her parent or legal guardian to develop and maintain the student's individual career and academic plan, referred to in this section as an "ICAP", no later than the beginning of ninth grade but may assist the student and his or her parent or legal guardian to develop and maintain the student's ICAP in any grade prior to ninth grade. Each student's ICAP shall comply with the requirements specified in section 22-2-136 and the rules promulgated by the state board of education pursuant to said section.

(2) Each institute charter school shall assist each student who is enrolled in the school and has an ICAP to use the plan effectively to direct the student's course selections and performance expectations in at least grades nine through twelve; to assist the student in meeting his or her academic and career goals as described in the ICAP; and to enable the student to demonstrate postsecondary and workforce readiness prior to or upon graduation from high school at a level that allows the student to progress toward his or her postsecondary education goals, if any, without requiring remedial educational services or courses.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 727, § 15, effective May 19.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-30.5-526. Basic skills placement or assessment tests - intervention plans.**

(1) Each institute charter school that includes any of grades nine through twelve may administer to students enrolled in those grades the basic skills placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113, C.R.S. The institute charter school may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate moneys to each institute charter school to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(2) If an institute charter school chooses to administer the basic skills placement or assessment tests, each student's individual career and academic plan shall include the scores achieved by the student on the basic skills placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness at the time he or she takes the tests. If a student's scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If



appropriate, the school, the student, and the student's parent or legal guardian may choose to enroll the student in one or more basic skills courses at an institution of higher education through the "Concurrent Enrollment Programs Act", article 35 of this title, if the student is enrolled in twelfth grade.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 727, § 15, effective May 19.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012.

## PART 6

### CHARTER SCHOOL COLLABORATIVES

**22-30.5-601. Short title.** This part 6 shall be known and may be cited as the "Charter School Collaborative Act".

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11.

**22-30.5-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "Authorizer" means a school district board of education that authorizes a district charter school pursuant to part 1 of this article or the state charter school institute board created in section 22-30.5-505.

(2) "Charter school" means a district charter school authorized pursuant to part 1 of this article or an institute charter school authorized pursuant to part 5 of this article.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11.

**22-30.5-603. Charter school collaborative - creation - public status - structure.**

(1) Two or more charter schools may contract with one another to form a charter school collaborative that is a legal entity separate from the contracting charter schools and is authorized to provide any function, service, or facility that is lawfully authorized for each of the contracting charter schools. A charter school need not obtain the approval of its authorizer to create or participate in a charter school collaborative.

(2) A charter school collaborative created pursuant to this section shall be a public entity that exists separately from the individual charter schools that are participating in the collaborative. The charter school collaborative shall hold and may exercise the duties, privileges, immunities, rights, liabilities, and disabilities of a public entity, including but not limited to the power to contract, to sue or be sued, and to hold title to property; except that a charter school collaborative may hold title to real property only for the use of the participating charter schools. The charter school collaborative shall be solely responsible for its debts, liabilities, and obligations, and said debts, liabilities, or obligations shall not be the responsibility of the participating charter schools or their authorizers.

(3) A charter school collaborative created pursuant to this section shall be deemed a local public body for purposes of the open meeting requirements of section 24-6-402, C.R.S. Except as otherwise specifically authorized in this section, a charter school collaborative shall be subject to all state statutes regulating charter schools as public entities as if the charter school collaborative were authorized by a school district board of education.

(3.5) A charter school collaborative may act as a school food authority pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(4) (a) A charter school collaborative, as a separate legal entity, shall exercise administrative control or direction in providing or operating specified functions, services, or facilities for the participating charter schools. The contract creating a charter school

collaborative shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the charter school collaborative and of the contracting charter schools. The participating charter schools shall delegate to the charter school collaborative the powers necessary to enable the charter school collaborative to provide or operate the functions, services, or facilities specified in the contract.

(b) In addition to any duty required to be performed by law or by the contract creating a charter school collaborative, the collaborative shall have and perform the following duties:

(I) To act consistently with the provisions of this article;

(II) To abide by the contract that creates and organizes the charter school collaborative; and

(III) To act consistently with the charter contract and mission of each charter school that participates in the charter school collaborative.

(5) A contract to establish a charter school collaborative shall, at a minimum, specify:

(a) The name and purpose of the charter school collaborative and the functions, services, or facilities that the charter school collaborative shall provide or operate;

(b) The establishment and organization of a board of directors of the charter school collaborative, including but not limited to:

(I) The number of directors, the manner of appointment, the terms of office, the amount of compensation, if any, and the procedures for filling vacancies;

(II) The officers of the charter school collaborative, the manner of their selection, and their duties;

(III) The voting requirements for action by the board of directors; except that, unless specifically provided otherwise in the contract, a majority of directors shall constitute a quorum and a majority of a quorum shall be necessary to authorize any action taken by the board of directors;

(c) Provisions for the disposition, division, or distribution of any property or assets of the charter school collaborative, including but not limited to distribution upon dissolution of the charter school collaborative of the equity in any real property that the charter school collaborative may hold;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that the contract may not be rescinded or terminated so long as the charter school collaborative has obligations outstanding, unless provisions for full payment of the obligations, by escrow or otherwise, are made pursuant to the terms of the obligations; and

(e) The terms, if any, under which a charter school that is not initially a participant in the charter school collaborative may join the collaborative and under which a charter school participant may withdraw from the charter school collaborative.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11. **L. 2011:** (3.5) added, (HB 11-1277), ch. 306, p. 1505, § 35, effective August 10.

**22-30.5-604. Charter school collaborative - nonexclusive.** Nothing in this part 6 shall prohibit a charter school from participating as a member in an organization formed for the purpose of mutual support, contracting for services, participating in intergovernmental agreements otherwise authorized by law, or participating in any other form of organization authorized by law and appropriate to Colorado public or nonprofit organizations.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1119, § 7, effective August 11.

**22-30.5-605. Administration fee.** The state board of education, by rule, may establish a fee to be paid by each charter school collaborative to offset any direct costs that the department of education may incur in collecting data from or regulating the charter school



collaborative. The amount of the fee shall not exceed the amount of said direct costs. Any amount in fees received by the department of education pursuant to this section is continuously appropriated to the department for said direct costs.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1119, § 7, effective August 11.

## PART 7

### EMERGENCY POWERS

**22-30.5-701. Short title.** This part 7 shall be known and may be cited as the “Charter School Emergency Powers Act”.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1087, § 2, effective May 21.

**22-30.5-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) “Authorizer” means a school district board of education that authorizes a charter school pursuant to part 1 of this article or the state charter school institute established pursuant to section 22-30.5-503.

(2) “Charter management organization” means the Colorado operations of a for-profit or nonprofit entity, as determined under section 501 (c) (3) of the federal “Internal Revenue Code of 1986”, that operates one or more charter schools.

(3) “Charter respondent” means a charter school or charter management organization that is the subject of a request for or an order granting emergency powers pursuant to this part 7.

(4) “Charter school” means a charter school as defined in section 22-30.5-103 (2) or an institute charter school as defined in section 22-30.5-502 (6).

(5) “Commissioner” means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(6) “Emergency” means a situation that:

(a) Presents a significant threat, as determined by the commissioner, to the health or safety of the students, staff, or other individuals involved with a charter school;

(b) Presents a significant threat, as determined by the commissioner, to substantial property rights of an authorizer or a significant risk, as determined by the commissioner, to a charter respondent’s solvency;

(c) Indicates a substantial diversion, as determined by the commissioner, of charter school moneys through one or more excess benefit transactions; or

(d) Is defined by rule of the state board as one that justifies action pursuant to this part 7.

(7) “Excess benefit” means a financial benefit arising directly or indirectly from a transaction with a charter school that would be considered an excess benefit under section 4958 (c) (1) of the federal “Internal Revenue Code of 1986”, as amended, and regulations adopted thereunder; except that the definition of excess benefit shall extend to all charter schools regardless of whether they have applied for or received nonprofit status under section 501 (c) (3) of the federal “Internal Revenue Code of 1986”, as amended. The salaries of administrators in comparable positions at other Colorado charter schools, charter management organizations, boards of cooperative services, and school districts serving a reasonably comparable number of students shall serve as the comparison for determining whether the salaries of charter school or charter management organization administrators are reasonable or excessive for the purposes of this part 7.

(8) “Fiduciary” means a person who meets the requirements of the “Uniform Fiduciaries Law”, part 1 of article 1 of title 15, C.R.S., and any other applicable law or rule.

(9) “Organic documents” means the articles of incorporation, articles of organization, constitution, bylaws, or other documents, however denominated, that define the basic

governance structure for a charter school and the body or bodies that have governing authority for a charter school.

(10) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1087, § 2, effective May 21.

**22-30.5-703. Emergency powers - request - orders - process - rules.** (1) An authorizer may request that the commissioner permit external control over certain functions of a charter school or charter management organization by submitting to the commissioner and the charter school or charter management organization a concise written statement identifying the emergency that justifies external control and the form or forms of external control requested. The authorizer shall state clearly if it is requesting an order of reorganization. The commissioner may authorize external control over a charter school or charter management organization by issuing a temporary order as provided in subsection (2) of this section or a preliminary order as provided in subsection (3) of this section.

(2) The commissioner may issue a temporary order in the event that immediate and irreparable injury, loss, or damage will result from the identified emergency before the charter respondent is able to state its opposition and before the authorizer certifies in writing or in person to the commissioner the efforts that have been made to give notice to the charter respondent. A temporary order issued pursuant to this subsection (2) shall state the date and hour of issuance, define the injury, state why the injury is irreparable, and state why the temporary order was given without notice. A temporary order issued under this subsection (2) shall be valid for ten days and may be extended for up to an additional ten days for good cause shown. The authorizer shall immediately provide the charter respondent with a copy of any temporary order issued pursuant to this subsection (2). A charter respondent shall provide an authorizer two business days' notice prior to requesting that the commissioner dissolve a temporary order issued pursuant to this subsection (2).

(3) The commissioner shall issue a preliminary order only if:

(a) The charter respondent received two business days' written notice that the authorizer has requested external control over certain functions of the charter respondent and the basis for the request;

(b) In the case of a charter respondent that is a charter management organization, authorizers of each of the affected charter schools have received two business days' written notice of the request for external control;

(c) The authorizer requesting external control and all parties that received notice have had the opportunity to meet with the commissioner to present such evidence and argument as the commissioner finds appropriate under the circumstances. In any meeting held before issuing a preliminary order pursuant to this subsection (3), the commissioner may accept evidence and arguments from the parties involved as he or she deems appropriate, but neither a formal adversarial hearing nor application of the rules of evidence shall be required.

(d) Following a meeting held pursuant to paragraph (c) of this subsection (3), the commissioner finds and determines that the authorizer has demonstrated an emergency and the risk of irreparable injury resulting from the emergency justifies an intrusion on the internal operations of the charter respondent.

(4) The commissioner may demand production of information from the charter respondent that may be necessary to conduct an investigation pursuant to this section, may issue subpoenas as otherwise provided for in section 24-4-105 (5), C.R.S., and may draw appropriate inferences from failure of any party to promptly comply with such requests.

(5) A preliminary order issued pursuant to subsection (3) of this section shall be valid for one hundred twenty days and may be extended for up to an additional one hundred twenty days, upon good cause shown.

(6) (a) A temporary or preliminary order may appoint the authorizer or another entity or person to act as a fiduciary; except that, if more than one authorizer is a party to the proceeding or if the authorizer is requesting an order of reorganization, the commissioner



shall appoint a separate person or entity that is not a party to the proceeding to act as a fiduciary. The fiduciary may exercise, subject to the limitations set forth in paragraph (b) of this subsection (6), the powers over and for the charter respondent that are ordinarily exercised by the charter respondent's board of directors and may take action respecting excess benefits as authorized pursuant to section 22-30.5-704.

(b) A temporary or preliminary order shall not authorize, nor be construed to permit, a fiduciary to:

- (I) Conclude, dissolve, relinquish, or surrender the charter contract;
- (II) Effect nonrenewal or revocation of the charter contract;
- (III) Negotiate, renegotiate, or amend the charter contract;
- (IV) Exercise the legal standing of the charter respondent in any administrative or court proceeding other than one brought pursuant to this section; except that the fiduciary may seek recovery of unpaid moneys due to the charter respondent from an authorizer;
- (V) Transfer into a trust the assets of the charter respondent;
- (VI) Repeal, alter, amend, restate, or in any fashion modify the charter respondent's organic documents;
- (VII) Remove, recall, or appoint any member of the charter respondent's governing board or officers;
- (VIII) Take any action that is reserved for the membership of a charter respondent that is organized as a membership organization; or
- (IX) Take any action that is not within the power of the charter respondent's governing board.

(7) The commissioner may require a fiduciary to provide evidence of appropriate insurance coverage, including but not limited to appropriate certificates of insurance. The insurance coverage shall be reasonably adequate to protect against risks of liability for any actions taken under an order granted pursuant to this section.

(8) (a) If an authorizer has requested an order of reorganization and the commissioner, after appropriate proceedings pursuant to this section, has appointed a fiduciary other than the authorizer to exercise certain powers, the fiduciary shall independently determine whether to continue to request the order of reorganization. An order of reorganization shall be authorized only if it is issued in compliance with the processes, standards, and purposes set forth in this section.

(b) A fiduciary other than an authorizer may request an order of reorganization at any time while a preliminary order or an extension of a preliminary order is pending, so long as the fiduciary provides at least ten days' notice to the charter respondent, the authorizer, and the commissioner. The fiduciary shall specifically state in the notice the powers of reorganization he or she is requesting and the reasons justifying the request. Notwithstanding the limitations placed on the powers of a fiduciary acting under a temporary or preliminary order, as set forth in subsection (6) of this section, the powers of reorganization shall only include one or more of the following powers:

- (I) To fill one or more board vacancies, notwithstanding the charter respondent's organic documents;
- (II) To remove one or more board directors or officers, notwithstanding the charter respondent's organic documents; or
- (III) To make specific, stated modifications to the charter respondent's organic documents, notwithstanding the process for amendment or restatement otherwise prescribed in those documents.

(c) The commissioner may issue an order of reorganization only after giving the authorizer and the charter respondent a reasonable opportunity to be heard, and then only if the commissioner finds that the risks created by the emergency to the charter respondent and the authorizer cannot be resolved by any less restrictive means. In any meeting held before issuing an order of reorganization, the commissioner may accept evidence and argument from the parties involved as he or she deems appropriate, but neither a formal adversarial hearing nor application of the rules of evidence shall be required.

(d) An order of reorganization shall be valid for the balance of the term of any pending preliminary order or for sixty days, whichever is greater, and may be renewed for an

additional thirty days upon good cause shown. An order of reorganization shall be valid for no more than ninety days.

(9) The fiduciary shall submit appropriate financial information to the commissioner and the director of public school finance within the department of education and provide copies to the charter respondent and authorizer. The charter respondent and authorizer may submit additional information to the director of public school finance. After receipt of all pertinent financial information, the director of public school finance shall make a written recommendation to the commissioner.

(10) A temporary or preliminary order or an order for reorganization granted pursuant to this section shall state the reasons for issuance; be specific in its terms; and describe in reasonable detail, without reference to the request or other documents, the act or acts authorized. An order granted pursuant to this section is binding only upon the charter school and its employees. An order appointing a fiduciary may specify or limit the fiduciary's powers and may direct the fiduciary to act only upon particular issues or only to exercise certain powers.

(11) Expenses incurred by an authorizer in pursuing a proceeding pursuant to this section shall be borne by the authorizer, and expenses incurred by a charter respondent in defending any proceeding pursuant to this section shall be borne by the charter respondent. Expenses incurred by the department shall be borne equally by the authorizer and the charter respondent. Expenses incurred by a fiduciary shall be submitted to the charter respondent and commissioner for approval and, after the commissioner resolves any disputed charges, shall be borne by the charter respondent.

(12) Notwithstanding any other provision of Colorado law, including but not limited to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any provision of a charter contract to the contrary, the powers granted pursuant to this part 7 shall be effective and valid as a matter of law.

(13) Nothing in this part 7 shall limit the authority of an authorizer to exercise any contractual rights, including any remedies, emergency or otherwise, for breach of a charter contract. A charter contract provision that purports to grant authority to an authorizer to exercise emergency powers as described in this part 7 shall be construed, if possible, to be consistent with this part 7. A provision construed to be inconsistent with this part 7 shall be deemed contrary to public policy, void, unenforceable, and of no legal effect. The burden shall be on the party asserting an inconsistency to demonstrate that such a provision is inconsistent with this part 7.

(14) An order issued pursuant to this section shall be final and binding and not subject to appeal. A charter respondent may seek judicial review of an order issued pursuant to this section under rule 106 (a) (4) of the Colorado rules of civil procedure; except that a temporary order shall not be subject to judicial review. A charter respondent may file an action for judicial review in the district court for the city and county of Denver or the district court in the county in which the charter respondent is located.

(15) An order issued pursuant to this section shall not be deemed to be an appointment of a trustee or receiver under the terms of any financing of a charter school facility or other instrument.

(16) The commissioner may fill any vacancy created by the death or inability of a fiduciary or, for good cause shown, may remove a fiduciary that is exercising powers pursuant to a preliminary order or order of reorganization and appoint a new fiduciary.

(17) A meeting conducted by the commissioner pursuant to this section shall be open to all parties to the proceeding. An order of the commissioner issued pursuant to this section and all requests for orders, by any party, shall be considered public documents.

(18) The state board is authorized to adopt rules, pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of this section.



**22-30.5-704. Excess benefits - cancellation of contracts - civil action and penalty.**

- (1) If a fiduciary other than an authorizer, operating under the authority of a preliminary order or an order for reorganization, determines that a charter respondent has engaged in an excess benefit transaction, the fiduciary may:
- (a) Cancel in writing and without penalty any contract entered into by the charter school that awards the excess benefit to an individual or another entity and cancel any further compensation to the party that received the excess benefit. The fiduciary may demand the return, within ten business days, to the charter respondent of all excess benefits paid within the preceding three years or, if the excessive payment has been concealed from the charter respondent's full governing board, the preceding six years.
- (b) If payment is not made as demanded pursuant to paragraph (a) of this subsection (1), file in the name of the charter respondent, a civil action for recovery of the excess benefit and imposition of a civil penalty. If the court finds that the charter respondent paid the excess benefit and the person receiving the excess benefit did not repay the amount within ten business days following the demand for repayment, the court shall deem the excess benefit an unauthorized payment of charter school moneys and award the charter respondent, through the fiduciary, an amount fixed in the court's discretion and based on all the circumstances. However, the amount shall not be less than the excess benefit paid and shall not be more than double the excess benefit paid plus all reasonable attorney fees and costs. If the court finds that the fiduciary did not have a reasonable basis in law and fact for claiming an excess benefit and filing the action, it may award the party defending the action attorney fees and costs.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1093, § 2, effective May 21.

**ARTICLE 30.7**

**On-line Education Programs**

22-30.7-101.	Legislative declaration.	22-30.7-107.	Funding.
22-30.7-102.	Definitions.	22-30.7-108.	Extracurricular and interscho-
22-30.7-103.	Division of on-line learning - created - duties.		lastic activities.
22-30.7-104.	On-line learning advisory board - created - reports - repeal. (Repealed)	22-30.7-109.	On-line programs - reports - rules. (Repealed)
22-30.7-105.	Program criteria - guidelines - quality standards - records - rules.	22-30.7-109.5.	On-line programs - report to authorizer and department.
22-30.7-106.	Certification of multi-district programs - criteria - rules.	22-30.7-110.	Reviews of multi-district pro- grams - rules. (Repealed)
		22-30.7-111.	Learning centers - memo- randa of understanding - rules - appeal process.

**22-30.7-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

- (a) On-line education represents a twenty-first century approach to teaching and learning that is appropriate for today's students;
- (b) Technological advances, particularly in the development and dissemination of resources through the internet, can provide alternatives for the provision of educational services that can be customized to serve the diverse needs of today's student population;
- (c) Technology and on-line education, including both full-time and supplemental programs, are important tools to enhance educational opportunities and improve educational outcomes;
- (d) The growth of on-line education is challenging existing educational policy, administration, and oversight;
- (e) On-line programs and on-line schools must be accountable to students and parents and to the institutions that accredit on-line programs and on-line schools;
- (f) The state has a role in ensuring quality oversight of on-line programs and on-line

schools, but the state should not replace a school district or an authorizing entity in directly administering on-line programs and on-line schools;

(g) Local control of schools is a fundamental Colorado value;

(h) It is the role of families and students to choose their schools and models of education; and

(i) A student's access to educational opportunities should not be limited by where the student lives or by the financial, social, or other resources that are available or unavailable to the student.

(2) The general assembly further finds that:

(a) In response to a report of the state auditor released December 11, 2006, concerning a performance audit of on-line education in Colorado, the Donell-Kay foundation created the Trujillo commission consisting of a small group of on-line education stakeholders and professionals;

(b) The Trujillo commission held public meetings and solicited input from on-line education professionals and participants throughout the state concerning recommendations for the oversight and operation of on-line education in Colorado, and, based on the information and ideas collected, produced a final report released February 15, 2007.

(3) The general assembly finds, therefore, that the state should:

(a) Avail itself of enhanced technological services, which are available as a result of technological advances, to serve the educational needs of the citizens of the state more appropriately; and

(b) Take immediate action to ensure quality and accountability in the on-line educational programs offered within the state.

**Source: L. 2007:** Entire article added, p. 1066, § 1, effective July 1. **L. 2012:** (1)(e) and (1)(f) amended, (HB 12-1240), ch. 258, p. 1319, § 35, effective June 4.

**22-30.7-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "Authorizer" means an entity that authorizes an on-line program or on-line school. "Authorizer" shall include a school district, any group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, or the state charter school institute established pursuant to section 22-30.5-503.

(3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4) "Learning center" means a facility in which a consistent group of students meets more often than once per week under the supervision of a teacher or mentor for a significant portion of a school day for the purpose of participating in an on-line program. A group of parents and students meeting repeatedly, occasionally, and informally, even if facilitated by a school, shall not constitute a "learning center", and a private home shall not be considered a "learning center" under any circumstances.

(5) "Mentor" means an individual who is responsible for providing supervision at a learning center. A "mentor" shall not be required to be a licensed teacher but shall, at a minimum, satisfy the requirements specified for a paraprofessional as such requirements are described in the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(6) "Multi-district on-line school" means an on-line school that serves a student population drawn from two or more school districts.

(7) "On-line division" means the division of on-line learning created in the department of education pursuant to section 22-30.7-103.

(8) "On-line learning expert" means a person with special knowledge of and experience in the teaching or administration of single-district on-line programs and on-line schools, multi-district on-line schools, or supplemental programs for students in kindergarten through twelfth grade.

(9) "On-line program" means a full-time, on-line education program authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the internet. "On-line program" does not include a supplemental program. Accountability for each student in an



on-line program is attributed back to a designated school that houses the on-line program. Notwithstanding any other provision of this subsection (9) to the contrary, any on-line program with one hundred or more students shall be considered an on-line school and not an on-line program.

(9.5) "On-line school" means a full-time, on-line education school authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the internet. An on-line school has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An on-line school is responsible for fulfilling all reporting requirements and will be held to state and federally mandated accountability processes.

(10) "On-line pupil enrollment" shall have the same meaning as provided in section 22-54-103 (8.5).

(11) "Parent" means a biological parent, adoptive parent, or legal guardian.

(12) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(12.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(13) "Single-district on-line program" or "single-district on-line school" means an on-line program or on-line school that serves only students who reside within a single school district.

(14) "Standard MOU form" means the standard memorandum of understanding form adopted by the state board pursuant to section 22-30.7-111 (5).

(15) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(16) "Supplemental program" means a program that offers one or more on-line courses to students to augment an educational program provided by a school district, charter school, or board of cooperative services.

**Source:** L. 2007: Entire article added, p. 1067, § 1, effective July 1. L. 2009: (1) repealed, (SB 09-112), ch. 122, p. 504, § 2, effective April 16. L. 2012: (12.5) added, (HB 12-1090), ch. 44, p. 151, § 10, effective March 22; (2), (6), (8), (9), and (13) amended and (9.5) added, (HB 12-1240), ch. 258, pp. 1319, 1311, §§ 36, 14, effective June 4; (13) amended, (HB 12-1212), ch. 66, p. 230, § 1, effective July 1.

**Editor's note:** Amendments to subsection (13) by House Bill 12-1212 and House Bill 12-1240 were harmonized.

### **22-30.7-103. Division of on-line learning - created - duties. (1) Creation.**

(a) There is hereby created within the department the division of on-line learning. The head of the division shall be the director of on-line learning and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution.

(b) The division of on-line learning and the office of the director shall exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) **Purposes.** The purposes of the on-line division are:

(a) To support on-line programs and on-line schools, students, parents, authorizers, and other entities related to on-line learning by providing information and access to available data; and

(b) To facilitate the certification of multi-district on-line schools in accordance with rules promulgated by the state board pursuant to section 22-30.7-106.

(3) **Duties.** The on-line division shall have the following duties:

(a) To consult with the state board in its creation of quality standards pursuant to section 22-30.7-105 for use by authorizers;

(b) To evaluate applications for certification of multi-district on-line schools using criteria adopted by rules promulgated by the state board pursuant to section 22-30.7-106 and to recommend that the state board grant or deny certification based upon the criteria;

(c) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10, 2011.)

(d) To recommend to the state board on or before September 1, 2007, a process, timeline, and standard MOU form for use by multi-district on-line schools and school districts in crafting memoranda of understanding pursuant to section 22-30.7-111 regarding the placement of learning centers within the boundaries of a school district. At a minimum, the standard MOU form shall include the information specified in section 22-30.7-111 (1) (b).

(e) to (g) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10, 2011.)

(h) To prepare a summary report to be submitted on or before February 1, 2009, and on or before June 1, 2014, and on or before June 1 every five years thereafter, to the state board and the education committees of the house of representatives and the senate, or any successor committees;

(i) To establish a process and timeline for documenting and tracking complaints concerning on-line programs and on-line schools;

(j) To collect resources to support the implementation of quality on-line programs and on-line schools and make the resources available to on-line programs and on-line schools upon request;

(k) To use the final report of the Trujillo commission on on-line education, which report was released February 15, 2007, as a basis for the recommendations, criteria, standards, reporting requirements, and rules required pursuant to this subsection (3);

(l) To annually collect and review information concerning sound financial and accounting practices and resources for each on-line program and on-line school. The information may be the same information submitted by on-line charter schools pursuant to section 22-30.5-109 (1).

(m) If the on-line division has reason to believe that an on-line program or on-line school is not in substantial compliance with one or more of the statutory or regulatory requirements applicable to on-line programs and on-line schools, to provide notice to the on-line program or on-line school, and its authorizer, and require that the on-line program or on-line school, together with its authorizer, address a plan for coming into compliance. The plan may be included in the school plan required pursuant to section 22-11-210 (2).

**Source: L. 2007:** Entire article added, p. 1069, § 1, effective July 1. **L. 2010:** (3)(h) amended, (HB 10-1013), ch. 399, p. 1911, § 33, effective June 10. **L. 2011:** (3) amended, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10. **L. 2012:** (2), (3)(b), (3)(d), (3)(i), (3)(j), (3)(l), and (3)(m) amended, (HB 12-1240), ch. 258, p. 1319, § 37, effective June 4.

#### **22-30.7-104. On-line learning advisory board - created - reports - repeal. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1070, § 1, effective July 1. **L. 2009:** Entire section repealed, (SB 09-112), ch. 122, p. 504, § 3, effective April 16.

**22-30.7-105. Program criteria - guidelines - quality standards - records - rules.**  
(1) (a) A school district and the state charter school institute established pursuant to section 22-30.5-503 are hereby authorized to create or oversee single-district on-line programs or single-district on-line schools.

(b) A school district, a group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, and the state charter school institute established pursuant to section 22-30.5-503 are hereby authorized to create or oversee multi-district on-line schools, subject to the requirement that the authorizer apply to the on-line



division for certification of the multi-district on-line school as described in section 22-30.7-106.

(c) Nothing in this article shall be construed to prohibit an on-line program or on-line school from providing supplemental on-line courses.

(2) The following guidelines shall apply to each on-line program or on-line school that is created or overseen pursuant to the provisions of this article:

(a) A student who is participating in an on-line program or on-line school shall be subject to compulsory school attendance as provided in article 33 of this title and shall be deemed to comply with the compulsory attendance requirements through participation in the on-line program or on-line school.

(b) Each student participating in an on-line program or on-line school shall be subject to the statewide assessments administered pursuant to section 22-7-409.

(c) The provisions of article 36 of this title concerning schools of choice shall apply to an on-line program or on-line school implemented pursuant to this article.

(d) The provisions of the "Education Accountability Act of 2009", article 11 of this title, shall apply to an on-line program or on-line school implemented pursuant to this article in the same manner as said provisions apply to the other public schools operating in this state.

(3) (a) An on-line program or on-line school that is administered pursuant to the provisions of this article shall satisfy the quality standards established by rules promulgated by the state board pursuant to paragraph (b) of this subsection (3).

(b) On or before January 1, 2008, the state board, in consultation with the on-line division, shall promulgate rules establishing quality standards for on-line programs and on-line schools administered pursuant to the provisions of this article. The rules shall include, but need not be limited to, the establishment of quality standards in the following areas:

- (I) An on-line program's or on-line school's governance, vision, and organization;
- (II) Standards-based curricula and data-driven instructional practices;
- (III) Technological capacity and support;
- (IV) Internet safety;
- (V) Sound financial and accounting practices and resources;
- (VI) Student academic performance and improvement;
- (VII) Monitoring and assessment of student academic performance and improvement;
- (VIII) Course completion measurements;
- (IX) Attendance tracking procedures;
- (X) Data analysis, management, and reporting;
- (XI) Guidance counseling;
- (XII) Engagement of parents and communities in on-line programs and on-line schools;
- (XIII) Provisions for students with special needs, including gifted and talented students and English language learners; and
- (XIV) Program evaluation and improvement.

(c) Repealed.

(4) (a) The records of each student participating in a multi-district on-line school shall be maintained on a permanent basis by the authorizer of the multi-district on-line school; except that, if a charter school provides the multi-district on-line school, only the charter school and not the authorizer shall be required to maintain the records. The records shall include, but need not be limited to:

- (I) Attendance data;
- (II) Test, evaluation, and statewide assessment results;
- (III) Immunization records, as required by sections 25-4-902 and 25-4-903, C.R.S.; and
- (IV) Such other records as are required under law concerning enrolled students, including but not limited to records required by state or federal statutes concerning the education of students with disabilities.

(b) (I) If a student enrolled in a school within a school district transfers to an on-line program or on-line school, the school district shall transmit to the on-line program or on-line school all performance, attendance, and assessment data concerning the student

within thirty days after the school district receives notice from the on-line program or on-line school that the student has enrolled in the on-line program or on-line school.

(II) If a student enrolled in an on-line program or on-line school transfers to a school within a school district, the on-line program or on-line school shall transmit to the school all performance, attendance, and assessment data concerning the student within thirty days after the on-line program or on-line school receives notice from the school district that the student has enrolled in the school.

(5) Each student participating in an on-line program or on-line school shall be a resident of this state and shall demonstrate that he or she possesses the appropriate electronic equipment and resources to participate in the program or school; except that an on-line program or on-line school may provide such equipment and resources to a student to enable the student to participate in the on-line program or on-line school.

**Source:** **L. 2007:** Entire article added, p. 1072, § 1, effective July 1. **L. 2009:** IP(3)(b) amended, (SB 09-112), ch. 122, p. 504, § 4, effective April 16; (2)(d) added and (3)(c) repealed, (SB 09-163), ch. 293, p. 1541, §§ 38, 39, effective May 21. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1320, § 38, effective June 4; (1)(a) amended, (HB 12-1212), ch. 66, p. 230, § 2, effective July 1.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 12-1212 and House Bill 12-1240 were harmonized.

**22-30.7-106. Certification of multi-district on-line schools - criteria - rules.** (1) If a school district, a group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, or the state charter school institute established pursuant to section 22-30.5-503 chooses to authorize a multi-district on-line school, the school district, group of two or more school districts, board of cooperative services, or state charter school institute shall, prior to authorizing the multi-district on-line school, apply to the on-line division for certification of the multi-district on-line school.

(2) Notwithstanding the provisions of subsection (1) of this section, the state board may, in its discretion, waive the requirement that an authorizer that chooses to authorize a multi-district on-line school apply to the on-line division for certification of the school if the multi-district on-line school that the authorizer seeks to authorize has ten or fewer students from outside the school district enrolled in the school.

(3) Notwithstanding the provisions of subsection (1) of this section, an authorizer of a single-district on-line program or on-line school that becomes a multi-district on-line school shall not be required to apply to the on-line division for certification of the multi-district on-line school in the event that ten or fewer students from outside the school district in which the single-district on-line program or on-line school is operating enroll in the multi-district on-line school.

(4) The state board shall promulgate rules specifying criteria to be used by the on-line division in certifying multi-district on-line schools. The criteria shall include, but need not be limited to, the following:

(a) Whether the authorizer of the multi-district on-line school possesses adequate resources and the capacity to oversee the multi-district on-line school, including but not limited to oversight of the following components of the multi-district on-line school:

- (I) Curriculum and instruction;
- (II) Use of software applications and technology;
- (III) Data gathering, analysis, and reporting;
- (IV) Human resources management;
- (V) Financial management, facilities management, and risk management; and
- (VI) Other relevant public education administration functions;

(b) Whether the plan for operating and monitoring the multi-district on-line school agreed to by the authorizer of the multi-district on-line school and the principal, director, or other chief administrator of the multi-district on-line school adequately addresses, at a minimum, consideration of the following elements:

- (I) The multi-district on-line school's vision, mission, and goals;



(II) The multi-district on-line school's organizational structure and governance, including governing board and school policies and procedures;

(III) Equitable access for all students;

(IV) Guidance counseling for all students enrolled in the multi-district on-line school;

(V) Student academic credit policies;

(VI) Student achievement and attendance policies, including but not limited to monitoring graduation and dropout rates;

(VII) Student records policies and procedures;

(VIII) Student admission and placement policies and procedures;

(IX) Staff development plans;

(X) Student services, including counseling and tutorial support;

(XI) Staff, student, and parent handbooks;

(XII) Employment and contractor policies and procedures;

(XIII) Annual budgeting and finance practices;

(XIV) Facility plans, including any contemplated physical sites;

(XV) Risk management;

(XVI) Data development, analysis, and reporting; and

(XVII) Policies and procedures for facilitating communication between the multi-district on-line school, parents, and school districts in which students who are enrolled in the multi-district on-line school reside; and

(c) The degree to which the multi-district on-line school will satisfy the quality standards for on-line programs and on-line schools described in section 22-30.7-105.

(5) On or before January 1, 2008, the state board shall promulgate rules establishing processes and timelines by which a prospective authorizer may apply to the on-line division for certification of a multi-district on-line school pursuant to this section.

(6) On or before January 1, 2008, the state board shall create an expedited procedure for the approval or denial of certification for multi-district on-line schools that were operating as of January 1, 2007.

(7) Notwithstanding any provision of this section to the contrary, an authorizer of a multi-district on-line school that was operating as of January 1, 2007, may continue to operate until August 1, 2008, without receiving certification of the school by the on-line division pursuant to this section.

(8) The state board shall not approve the certification of a multi-district on-line school until the state board has promulgated rules for such certification pursuant to this section.

**Source: L. 2007:** Entire article added, p. 1074, § 1, effective July 1. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1323, § 39, effective June 4.

### **22-30.7-107. Funding.**

(1) Repealed.

(2) For the 2008-09 budget year, and for each budget year thereafter, for purposes of determining total program funding pursuant to article 54 of this title:

(a) (I) A school district that is providing a single-district on-line program or on-line school, or a school district in which a district charter school is providing a single-district on-line program or on-line school, shall include each student who is enrolled in the single-district on-line program or on-line school as of the pupil enrollment count day of the applicable budget year in the school district's pupil enrollment for the applicable budget year and shall receive the school district's per-pupil funding for each student enrolled in the single-district on-line program or on-line school.

(II) An institute charter school that is providing a single-district on-line program or on-line school shall include each student who is enrolled in the single-district on-line program or on-line school as of the pupil enrollment count day of the applicable budget year in the institute charter school's pupil enrollment for the applicable budget year and shall receive the per-pupil funding of the institute charter school's accounting district for each student enrolled in the single-district on-line program or on-line school.

(b) (I) A school district that is providing a multi-district on-line school, or a school district in which a district charter school is providing a multi-district on-line school, shall

include each student who is enrolled in the multi-district on-line school as of the pupil enrollment count day of the applicable budget year in the school district's on-line pupil enrollment for the applicable budget year and shall receive on-line funding, as specified in section 22-54-104 (4.5).

(II) An institute charter school that is providing a multi-district on-line school shall include each student who is enrolled in the multi-district on-line school as of the pupil enrollment count day of the applicable budget year in the institute charter school's on-line enrollment for the applicable budget year and shall receive on-line funding, as specified in section 22-54-104 (4.5).

(3) and (4) Repealed.

(5) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding to the on-line division for on-line education is a permissible use of the moneys in the state education fund because the moneys are being used for accountable education reform, for accountable programs to meet state academic standards, for class-size reduction, for expanding technology education, and for accountability reporting as authorized by section 17 (4) (b) of article IX of the state constitution.

**Source: L. 2007:** Entire article added, p. 1076, § 1, effective July 1. **L. 2009:** (4)(d) and (5) added, (HB 09-1182), ch. 97, p. 364, §§ 1, 2, effective April 3. **L. 2012:** (2)(a) and (2)(b) amended, (HB 12-1090), ch. 44, p. 151, § 11, effective March 22; (2) amended and (3) repealed, (HB 12-1240), ch. 258, pp. 1325,1311, §§ 40, 13, effective June 4.

**Editor's note:** (1) Subsection (1)(d) provided for the repeal of subsection (1), effective July 1, 2008. (See L. 2007, p. 1076.)

(2) Subsection (4)(d)(I) provided for the repeal of subsection (4), effective July 1, 2010. (See L. 2009, p. 364.)

(3) Amendments to subsections (2)(a) and (2)(b) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.7-108. Extracurricular and interscholastic activities.** (1) A student who is participating in an on-line program or an on-line school, other than a student who is participating in the on-line program or on-line school after having been expelled from a public school, may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school or offered by a private school, at the private school's discretion, as provided in section 22-32-116.5.

(2) As used in this section, "extracurricular or interscholastic activity" shall have the same meaning as "activity" as set forth in section 22-32-116.5 (10) (a).

**Source: L. 2007:** Entire article added, p. 1078, § 1, effective July 1. **L. 2012:** (1) amended, (HB 12-1240), ch. 258, p. 1326, § 41, effective June 4.

### **22-30.7-109. On-line programs - reports - rules. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1079, § 1, effective July 1. **L. 2008:** IP(1)(a) amended, p. 1899, § 75, effective August 5. **L. 2011:** Entire section repealed, (HB 11-1277), ch. 306, p. 1501, § 25, effective August 10.

**22-30.7-109.5. On-line programs and on-line schools - report to authorizer and department.** Each on-line program and on-line school shall annually submit to its authorizer and to the department information, pursuant to state board rules, concerning sound financial and accounting practices and resources. A multi-district on-line school shall notify its authorizer and the department of any intent to amend the program's or school's application for certification, which shall include any intent to expand grade levels served by the program or school, any intent to change education service providers, or other intended changes, as defined by the state board. If the department concludes that the on-line program



or on-line school should not be permitted to amend its application for certification, based on the quality standards established by the state board pursuant to section 22-30.7-105, the department shall notify the authorizer and the on-line program or on-line school of its decision within thirty days of receiving the notification from the program or school. The authorizer shall then have thirty days to appeal the department's decision to the state board, pursuant to the state board's administrative policies.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1502, § 26, effective August 10. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1326, § 42, effective June 4.

#### **22-30.7-110. Reviews of multi-district programs - rules. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1080, § 1, effective July 1. **L. 2011:** Entire section repealed, (HB 11-1277), ch. 306, p. 1502, § 27, effective August 10.

**22-30.7-111. Learning centers - memoranda of understanding - rules - appeal process.** (1) (a) A multi-district on-line school that intends to provide instruction to students within one or more learning centers shall, before providing such instruction, seek to enter into a memorandum of understanding with each school district in which the multi-district on-line school intends to provide instruction within a learning center.

(b) A multi-district on-line school that intends to provide instruction to students within a learning center shall notify the school district in which the proposed learning center is located of the multi-district on-line school's intention in writing at least ninety days before the multi-district on-line school intends to commence providing such instruction. The notice shall include the standard MOU form that addresses, at a minimum, the following information as it applies to each learning center to be located within the school district:

(I) A description of any curricula that will be offered by the multi-district on-line school at the learning center;

(II) The proposed location of the learning center;

(III) The grade levels to be served at the learning center;

(IV) The number of students projected to attend the multi-district on-line school at the learning center;

(V) Any building permits or certifications of building safety that may be required by law;

(VI) A list of all staff positions at the learning center, including a description of duties for each position;

(VII) Measures to ensure compliance with state and federal laws concerning educator licensing and fingerprint-based criminal history record checks;

(VIII) The name of and contact information for the multi-district on-line school and the names of and contact information for all learning center administrators; and

(IX) The plans for one or more public meetings to be held prior to the opening of a learning center.

(c) Within forty-five days after receiving the notice and standard MOU form from a multi-district on-line school pursuant to paragraph (b) of this subsection (1), the school district and the multi-district on-line school shall meet to discuss the terms of the memorandum of understanding, based on the standard MOU form provided with the notice. The school district and the multi-district on-line school may mutually agree to change the information in the standard MOU form provided with the notice or to include information in the memorandum of understanding in addition to that included in the standard MOU form.

(d) Within forty-five days after receiving the notice and the standard MOU form pursuant to paragraph (b) of this subsection (1), the school district and the multi-district on-line school shall hold at least one public meeting at which they shall receive public input concerning location of one or more learning centers within the school district.

(e) No later than forty-five days after the school district receives the notice and standard MOU form pursuant to paragraph (b) of this subsection (1), the school district shall notify the multi-district on-line school, the on-line division, and the state board in writing of the school district's decision whether to enter into a memorandum of understanding with the multi-district on-line school for operation of a learning center within the school district. If the school district does not provide notice of its decision within forty-five days, the standard MOU form provided by the multi-district on-line school with the notice shall become effective on the forty-sixth day following the school district's receipt of the notice and standard MOU form, and the multi-district on-line school may proceed under the terms of the standard MOU form as provided to the school district.

(f) A school district may refuse to enter into a memorandum of understanding with a multi-district on-line school for the operation of a learning center within the school district only if:

(I) The standard MOU form provided by the multi-district on-line school fails to satisfy the requirements described in paragraph (b) of this subsection (1); or

(II) The school district reasonably determines that the multi-district on-line school is contrary to the best interests of the pupils, parents, community, or school district.

(g) If a school district refuses to enter into a memorandum of understanding with a multi-district on-line school for operation of a learning center, the multi-district on-line school may appeal the school district's decision to the state board pursuant to the provisions of subsection (6) of this section.

(h) Notwithstanding any provision of this section to the contrary, a multi-district on-line school that seeks to operate a learning center within a school district shall not be required to enter into a memorandum of understanding with the school district if the school district is the authorizer of the multi-district on-line school.

(i) Notwithstanding any provision of this section to the contrary, a school district and a multi-district on-line school may mutually agree in writing to decline to enter into a memorandum of understanding.

(j) To ensure that all students have a reasonable opportunity to benefit from on-line education, a school district and a multi-district on-line school shall make good faith efforts to craft and enter into a memorandum of understanding pursuant to the provisions of this section.

(2) A memorandum of understanding entered into by a school district and a multi-district on-line school pursuant to the provisions of this section shall be effective for three years. A school district and a multi-district on-line school may enter into an unlimited number of successive memoranda of understanding.

(3) If a school district and a multi-district on-line school enter into a memorandum of understanding pursuant to the provisions of this section, the memorandum of understanding shall include consideration of all learning centers that the multi-district on-line school proposes, at the time the memorandum of understanding is crafted, to operate within the school district, and the memorandum of understanding shall supersede any memorandum of understanding previously entered into by the school district and the multi-district on-line school.

(4) (a) If a multi-district on-line school is operating a learning center within a school district under the terms of a memorandum of understanding, and the multi-district on-line school seeks to operate an additional learning center within the school district, which additional learning center is not contemplated in an existing memorandum of understanding, the multi-district on-line school shall provide notice to the school district of the multi-district on-line school's intention to operate an additional learning center. The notice shall include the standard MOU form.

(b) Upon receiving notice from a multi-district on-line school as described in paragraph (a) of this subsection (4), the school district shall decide whether to seek to craft a new memorandum of understanding with the multi-district on-line school, and the school district shall notify the multi-district on-line school of the school district's decision within thirty days after receiving the notice described in paragraph (a) of this subsection (4).

(c) (I) If the multi-district on-line school receives notice within thirty days that the school district has decided to seek to craft a new memorandum of understanding, the



multi-district on-line school and the school district shall seek to craft a new memorandum of understanding pursuant to the provisions of this section.

(II) If the multi-district on-line school does not receive notice within thirty days after the school district’s decision, or the multi-district on-line school receives notice that the school district has decided not to seek to craft a new memorandum of understanding, the multi-district on-line school may begin to operate the additional learning center.

(5) On or before October 1, 2007, the state board shall approve the standard MOU form, which shall, at a minimum, include the information specified in paragraph (b) of subsection (1) of this section. The standard MOU form approved by the state board shall be based on the standard MOU form recommended by the on-line division pursuant to section 22-30.7-103 (3) (d).

(6) (a) On or before January 1, 2008, the state board shall promulgate rules establishing procedures and timelines by which a multi-district on-line school may appeal to the state board a decision by a school district to refuse to enter into a memorandum of understanding with the multi-district on-line school for the operation of a learning center within the school district.

(b) If the state board determines that a school district’s decision to refuse to enter into a memorandum of understanding was contrary to the best interests of the pupils, parents, community, or school district, the state board shall issue an order directing the school district to enter into a final memorandum of understanding with the multi-district on-line school regarding the placement of one or more learning centers within the school district and to use the standard MOU form provided with the notice pursuant to paragraph (b) of subsection (1) of this section as the basis for the final memorandum of understanding.

(c) Upon receiving notice from a multi-district on-line school that the multi-district on-line school is appealing a decision by a school district to refuse to enter into a memorandum of understanding with the multi-district on-line school, the state board shall resolve the dispute within forty-five days by either affirming the school district’s decision or issuing an order directing the school district to enter into a memorandum of understanding with the multi-district on-line school, as described in paragraph (b) of this subsection (6).

(7) Notwithstanding any provision of this section to the contrary, a multi-district on-line school that operates one or more learning centers within a school district as of January 1, 2007, may continue to operate learning centers within the school district until August 1, 2008, without entering into a memorandum of understanding with the school district. A multi-district on-line school that operates one or more learning centers within a school district as of January 1, 2007, shall provide notification to the school district on or before September 1, 2007, of any learning centers being operated by the multi-district on-line school within the school district. The notice shall include the information described in subparagraphs (I) through (VIII) of paragraph (b) of subsection (1) of this section.

**Source: L. 2007:** Entire article added, p. 1080, § 1, effective July 1. **L. 2008:** (6)(b) amended, p. 1899, § 76, effective August 5. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1326, § 43, effective June 4.

ARTICLE 31

School District Directors - Election

22-31-101.	Definitions.		and recorder.
22-31-101.5.	Acts and elections conducted pursuant to provisions which refer to qualified electors.	22-31-104.	Regular biennial school election.
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22-31-110.	Changes in director districts.	22-31-123.	Tie votes. (Deleted by amendment)
22-31-111.	Precincts and polling places. (Deleted by amendment)	22-31-124.	Canvass of votes - certificate of election. (Deleted by amendment)
22-31-112.	Judges. (Deleted by amendment)	22-31-125.	Oath of directors.
22-31-113.	Notice of school election. (Deleted by amendment)	22-31-126.	Preservation of ballots. (Deleted by amendment)
22-31-113.5.	Election may be cancelled - when. (Deleted by amendment)	22-31-127.	Contests. (Deleted by amendment)
22-31-114.	Ballots, ballot boxes, voting machines, and electronic voting equipment. (Deleted by amendment)	22-31-128.	Recall of school directors. (Deleted by amendment)
22-31-115.	Pollbooks - certificate of return. (Deleted by amendment)	22-31-129.	Vacancies.
22-31-116.	Hours of voting. (Deleted by amendment)	22-31-130.	School election offenses. (Deleted by amendment)
22-31-117.	Voting at school elections. (Deleted by amendment)	22-31-131.	Election procedures in districts composed of a city and county.
22-31-118.	Watchers. (Deleted by amendment)	22-31-132.	Article not applicable to junior colleges.
22-31-119.	Absentee voting. (Deleted by amendment)	22-31-133.	Present school directors not removed.
		22-31-134.	Validation.

**22-31-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Eligible elector” means a person who is registered to vote for state officers at general elections in this state and has resided in the school election precinct twenty-five days immediately preceding the election at which the elector intends to vote.

(1.5) “Electronic vote-tabulating equipment” or “electronic vote-counting equipment” includes any apparatus necessary to automatically examine and count votes as designated on ballot cards and tabulate the result.

(1.7) “Electronic voting equipment” or a “punch card electronic voting system” means a method in which votes are recorded on ballot cards by means of marking or punching, and such votes are subsequently counted and tabulated by electronic vote-tabulating equipment at one or more counting centers.

(2) “Pollbook” means the list of eligible electors to whom ballots are delivered or who are permitted to enter a voting machine booth for the purpose of casting their votes at a school election called under this article.

(3) “Registered elector” means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the school district calling the election.

(4) “Registration list” means the computer list of registered electors of each school election precinct prepared by the county clerk and recorder from the county registration books in accordance with section 1-5-303, C.R.S.

(5) “Regular biennial school election” means the election in a school district held at the time specified in section 22-31-104.

(6) “School enrollment” means the end-of-year enrollment reported by the secretary of the board of education to the department of education for the school year preceding the school year in which the election is held.



(7) "Special school election" means any school election provided for by law and held at a time other than the regular biennial school election.

(7.5) and (8) (Deleted by amendment, L. 92, p. 811, § 31, effective January 1, 1993.)

**Source:** L. 64: p. 592, § 1. C.R.S. 1963: § 123-31-1. L. 70: p. 178, § 25. L. 71: pp. 563, 564, 1151, §§ 46, 50, 9. L. 73: p. 594, § 57. L. 74: (5) R&RE, p. 369, § 1, effective March 21. L. 75: (9) to (11) added, p. 686, § 3, effective July 1. L. 87: (1) and (3) amended, p. 310, § 36, effective July 1. L. 90: (5) amended, p. 1050, § 1, effective April 12. L. 92: Entire article amended, p. 811, § 31, effective January 1, 1993.

## ANNOTATION

**United States citizenship requirements for voters are constitutional.** The state's United States citizenship requirements for voting in a school district election do not contravene the equal protection clause of the fourteenth amendment. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

The state has a rational interest in limiting participation in government to those persons within the political community. Aliens are not a part of the political community. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

This section and § 22-31-106, prohibiting permanent resident aliens from voting in school district elections, do not purport to be concerned with prohibiting from voting persons with some common trait, which trait is conclusively presumed from the status of alienage. Instead, the

statutes only purport to exclude aliens from voting. Thus, they do not create a conclusive presumption. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

The prohibition against voting placed upon resident aliens does not create a conclusive presumption in violation of the due process clause of the fourteenth amendment since there is no fact presumed from the status of alienage; rather, the general assembly intended to prohibit aliens from voting, and the classification exactly achieves that purpose. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

This section and § 22-31-106 are not invalid under the supremacy clause. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

**22-31-101.5. Acts and elections conducted pursuant to provisions which refer to qualified electors.** Any acts and elections carried out under this article, which were conducted prior to July 1, 1987, pursuant to provisions which refer to a qualified elector rather than a registered elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

**Source:** L. 87: Entire section added, p. 311, § 37, effective July 1. L. 92: Entire article amended, p. 812, § 31, effective January 1, 1993.

## **22-31-102. Computation of time. (Deleted by amendment)**

**Source:** L. 64: p. 593, § 2. C.R.S. 1963: § 123-31-2. L. 92: Entire article amended, p. 813, § 31, effective January 1, 1993.

**22-31-103. Board of education to govern conduct of school elections - contract with county clerk and recorder.** (1) Except as otherwise provided in this article, the board of education of each school district shall govern the conduct of all school elections in the district, shall designate an election official who shall be responsible for conducting the election, and shall render all interpretations and make all initial decisions as to controversies or other matters arising in the conduct of such elections. All elections authorized in this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(2) The board of education of any school district may contract with the county clerk and recorder for the administration of any of the duties of the board, its secretary, or the

designated election official relating to the conduct of any school election. The election shall be conducted by the county clerk and recorder if the county clerk and recorder is conducting a coordinated election pursuant to section 1-7-116, C.R.S.

**Source:** **L. 64:** p. 594, § 3. **C.R.S. 1963:** § 123-31-3. **L. 92:** Entire article amended, p. 813, § 31, effective January 1, 1993. **L. 94:** (2) amended, p. 1180, § 75, effective July 1.

**22-31-104. Regular biennial school election.** (1) Except as provided in section 22-31-131, pertaining to districts whose boundaries are coterminous with a city and county, the regular biennial school election in each school district shall be held the first Tuesday in November of each odd-numbered year.

(2) (Deleted by amendment, L. 2006, p. 1021, § 1, effective May 25, 2006.)

(3) School district directors elected shall serve until their successors are elected and qualified. A director shall take office no later than fifteen days following the date on which the school district receives the official abstract of votes pursuant to section 1-10-102, C.R.S.

**Source:** **L. 64:** p. 594, § 4. **C.R.S. 1963:** § 123-31-4. **L. 73:** p. 594, § 58. **L. 74:** Entire section R&RE, p. 369, § 2, effective March 21. **L. 75:** Entire section R&RE, p. 686, § 4, effective July 1. **L. 90:** Entire section amended, p. 1050, § 2, effective April 12. **L. 91:** Entire section amended, p. 520, § 1, effective April 19. **L. 92:** Entire article amended, p. 813, § 31, effective January 1, 1993. **L. 93:** (2)(b) amended, p. 67, § 1, effective March 22; (3) amended, p. 1781, § 45, effective June 6. **L. 94:** (1) and (3) amended, p. 1180, § 76, effective July 1. **L. 2006:** (2) and (3) amended, p. 1021, § 1, effective May 25. **L. 2007:** (3) amended, p. 1984, § 38, effective August 3.

**22-31-105. School directors - number - election - term - plan of representation.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), in each school district, regardless of when the school district was organized, five, six, or seven school directors shall be elected, the number having been established as required by law. The school directors shall be elected at regular biennial school elections, each for a term of four years and until a successor has been elected and qualified; except that any school district that elects directors for terms of six years as of July 1, 1999, may continue electing directors for terms of six years until such time as the term length may be changed as provided in subsection (3) of this section.

(b) In each school district coterminous with a city and county, there shall be elected a seven-member board of education with one eligible elector elected from each of five director districts and two eligible electors elected from the district at large. School directors shall be elected at the respective regular biennial school elections, each for a term of four years and until a successor has been elected and qualified. Elections shall be held in accordance with the procedures established in section 22-31-131.

(2) Except as otherwise provided in section 22-31-131 (1.5) (b) (I) and subsection (6.5) of this section, all school directors shall be voted on at large by the eligible electors of the entire school district, regardless of the school district's plan of representation.

(3) (a) The board of education of any school district in which the directors serve six-year terms may, by resolution passed by a majority of the whole board, submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the terms of office of the directors of the district from six years to four years. The proposed plan shall be adopted by resolution of the board at least one hundred ten days prior to the election.

(b) Upon receipt of a written petition that meets the requirements specified in this paragraph (b), the board of education of any school district in which the directors serve six-year terms shall submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the terms of office of the directors of the district from six years to four years. The petition shall be signed by at least five percent of the eligible electors of the district, and the proposed plan, specifying terms of office and



establishing the procedure for making the transitions, shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education at least one hundred ten days prior to the election.

(c) No proposal to change the terms of office of the directors of the district shall be submitted within four years after a previous proposal to change the terms of office has been submitted to the eligible electors of the district.

(d) The secretary of the board of education shall cause notice to be given pursuant to section 1-5-205, C.R.S., that at the next biennial election for school directors a plan revising the terms of office of school directors will be submitted to the eligible electors of the district. The notice shall state that the plan is on file in the administration offices of the school district for public inspection during reasonable business hours; and the notice may be combined with the notice otherwise required for the election of school directors at the regular biennial school election.

(e) The ballot shall contain the words "For a four-year term of office for school directors" and "Against a four-year term of office for school directors". Otherwise, the ballots and election procedures shall be the same as prescribed for the regular biennial school election.

(f) If a majority of the votes cast at the election are "For a four-year term of office for school directors", the plan shall become effective upon the survey of election returns. If a majority of the votes cast are "Against a four-year term of office for school directors", the school directors of the district shall continue to be elected or appointed as prescribed in this section.

(4) (a) The board of education of a school district may, by resolution passed by a majority of the whole board, submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the number of directors; except that the school district shall not elect fewer than five nor more than seven directors. The proposal shall be adopted by resolution of the board at least one hundred ten days prior to the election. As provided in subsection (7) of this section, the board of education may simultaneously adopt a resolution to submit a proposal to change the school district plan of representation; except that, if the existing school directors are elected pursuant to a director district plan of representation, the board of education shall simultaneously adopt a resolution to submit a proposal to either change the boundaries of the director districts to reflect the change in the number of directors or change the school district plan of representation to adopt an at-large plan of representation or a combined director district and at-large plan of representation.

(b) Upon receipt of a written petition that meets the requirements specified in this paragraph (b), the board of education of a school district shall submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the number of directors; except that the school district shall not elect fewer than five nor more than seven directors. As provided in subsection (7) of this section, the persons submitting the petition may simultaneously submit a petition to change the school district plan of representation. If the existing school directors are elected pursuant to a director district plan of representation and no change to the school district plan of representation is submitted by petition, the board of education shall adopt a resolution to submit a proposal to either change the boundaries of the director districts to reflect the change in the number of directors or change the school district plan of representation to adopt an at-large plan of representation or a combined director district and at-large plan of representation. Any petition submitted pursuant to this paragraph (b) shall be signed by at least five percent of the eligible electors of the district and shall be submitted to the secretary of the board of education at least one hundred ten days prior to the election.

(c) The secretary of the board of education shall cause notice to be given pursuant to section 1-5-205, C.R.S., that at the next regular biennial election for school directors a proposal to change the number of directors and the school district plan of representation, if submitted or adopted pursuant to paragraph (a) or (b) of this subsection (4), will be submitted to the eligible electors of the district.

(d) The ballot shall contain the words "For changing the number of school directors from \_\_\_\_ to \_\_\_\_ (and for the proposed change to the director district plan of representa-

tion)" and "Against changing the number of school directors from \_\_\_\_ to \_\_\_\_ (and against the proposed change to the director district plan of representation)". Otherwise the ballots and election procedures shall be the same as prescribed for the regular biennial school election.

(e) If a majority of the votes cast on the question are "For changing the number of school directors from \_\_\_\_ to \_\_\_\_ (and for the proposed change to the director district plan of representation)", the plan shall become effective for the election of school directors at subsequent regular biennial school elections. If a majority of the votes cast are "Against changing the number of school directors from \_\_\_\_ to \_\_\_\_ (and against the proposed change to the director district plan of representation)", there shall continue to be the same number of school directors operating under the same plan of representation in such district as existed prior to the election.

(5) (a) In any school district in which the terms of office of the directors expire on a schedule that does not create as close to the same number of offices to be filled at each regular biennial school election as possible, the board of education may, by resolution passed by a majority of all members of the board of education, extend or reduce for two years one or more terms of directors to be elected at the next regular biennial school election as necessary to achieve thereafter as close to the same number of offices to be filled at each regular biennial school election as possible. The extension or reduction of terms of office shall occur only once; thereafter, all terms of the members of the board of directors shall be equal.

(b) In determining which term or terms to extend or reduce, the board of education shall select, first, the term or terms for which an early election is scheduled at the next regular biennial school election due to the occurrence of a vacancy in the office of school director and, second, the term or terms regularly expiring at the next succeeding regular biennial school election. In the event it is necessary for the board of education to select between two or more terms of equal priority for extension or reduction under this subsection (5), the determination shall be by lot.

(c) The resolution extending or reducing the terms of office shall be adopted not less than one hundred ten days prior to the next regular biennial school election. A candidate shall run for and, if elected, shall serve the term as is appropriate for the director district in which the candidate resides; however, if the school district has an at-large plan of representation or a combined director district and at-large plan of representation, each candidate shall run for and, if elected, shall serve for the designated term as provided for in section 1-4-803 (3), C.R.S.

(6) (a) The board of education of any school district that desires to propose a change in its plan of representation may submit a plan to implement such change to the eligible electors of the school district at any regular biennial school election or at a special school election called by the board for that purpose. A change in the plan of representation may consist of the adoption of a director district plan of representation, the elimination of a director district plan of representation and replacement with an at-large plan of representation, or the adoption of a plan of representation that combines director districts with an at-large plan of representation. The plan shall be adopted by the board of education at least one hundred ten days prior to the election.

(b) The eligible electors of any school district who desire to propose the adoption of any change to the school district plan of representation specified in paragraph (a) of this subsection (6) may petition the board of education of the school district to submit a plan to implement the change to the eligible electors of the district at any regular biennial school election. The petition shall be signed by at least five percent of the eligible electors of the school district, and the proposed plan of representation shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education of the school district at least one hundred ten days prior to the election. If the plan meets statutory requirements, the board of education shall submit the plan to the eligible electors of the school district at the next regular biennial school election.

(c) A director district plan of representation developed pursuant to paragraph (a) or (b) of this subsection (6) shall be subject to the specifications prescribed in section 22-31-109.



(d) The secretary of the board of education shall cause notice to be given on the question of whether the existing plan of representation shall be replaced by the plan of representation proposed in the manner provided in paragraph (a) or (b) of this subsection (6), pursuant to section 1-5-205, C.R.S., which shall include that the plan of representation is available at the administration offices of the school district for public inspection during reasonable business hours.

(e) The ballot shall contain the words "For the proposed director district plan of representation" and "Against the proposed director district plan of representation", or "For the proposed at-large plan of representation" and "Against the proposed at-large plan of representation", or "For the proposed combined director district and at-large plan of representation" and "Against the proposed combined director district and at-large plan of representation", as the case may be. Otherwise, the ballots and election procedures shall be, as nearly as practicable, as prescribed for a regular biennial school election.

(f) If a majority of the votes cast at the election are for the proposed plan of representation, the plan shall become effective upon the survey of election returns; but no plan of representation shall terminate the office of any school director elected at or prior to the election at which the plan is submitted. The plan shall be effective after the election for subsequent vacancies and the election of school directors at any subsequent regular biennial school election. In the event that, as a result of the adoption of a plan of representation, two or more members of the board of education reside in the same new director district and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district that does not then have a representative on the board of education. If the majority of the votes cast at the election are against the proposed plan of representation, the school directors of the district shall continue to be elected or appointed as provided under the existing plan of representation, except as otherwise provided in section 22-31-110.

(6.5) (a) The board of education of any school district that desires to have all or some members of the board of education elected by the vote of eligible electors within a director district rather than at-large may submit a plan to implement such change to the eligible electors of the school district at any regular biennial school election or at a special school election called by the board for that purpose. A change in the method for electing members of the board of education may consist of the adoption of a director district plan of representation or the adoption of a plan of representation that combines director districts with an at-large plan of representation. The plan shall be adopted by the board of education at least one hundred ten days prior to the election.

(b) The eligible electors of any school district who desire to propose the adoption of any change in the manner of the election of members of the board of education specified in paragraph (a) of this subsection (6.5) may petition the board of education of the school district to submit a plan to implement the change to the eligible electors of the district at any regular biennial school election. The petition shall be signed by at least five percent of the eligible electors of the school district, and the proposed plan of election shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education of the school district at least one hundred ten days prior to the election. If the plan meets statutory requirements, the board of education shall submit the plan to the eligible electors of the school district at the next regular biennial school election.

(c) A plan of election developed pursuant to paragraph (a) or (b) of this subsection (6.5) shall be subject to the specifications prescribed in section 22-31-109.

(d) The secretary of the board of education shall cause notice to be given on the question of whether the existing plan of representation shall be replaced by the plan of representation proposed in the manner provided in paragraph (a) or (b) of this subsection (6.5), pursuant to section 1-5-205, C.R.S., which shall include notice that the plan of election is available at the administration offices of the school district for public inspection during reasonable business hours.

(e) The ballot shall contain the words "For the proposed election of directors by the electors of a director district" and "Against the proposed election of directors by the electors of a director district". Otherwise, the ballots and election procedures shall be, as nearly as practicable, as prescribed for a regular biennial school election.

(f) If a majority of the votes cast at the election are for the proposed plan of election, the plan shall become effective upon the survey of election returns; but no plan of election shall terminate the office of any school director elected at or prior to the election at which the plan is submitted. The plan shall be effective after the election for subsequent vacancies and the election of school directors at any subsequent regular biennial school election. In the event that, as a result of the adoption of a plan of representation, two or more members of the board of education reside in the same new director district and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district that does not at that time have a representative on the board of education. If the majority of the votes cast at the election are against the proposed plan of election, the school directors of the district shall continue to be elected or appointed as provided under the existing plan of election, except as otherwise provided in section 22-31-110.

(7) (a) A resolution by a board of education of a school district or a petition of the eligible electors of a school district may propose any of the issues specified in subsections (3) to (6.5) of this section for consideration in one election.

(b) Any plan to change the number of director districts adopted pursuant to this section shall provide, if necessary, that the term of office of one or more directors to be elected at a subsequent regular biennial school election may be less than otherwise prescribed by law, in order to preserve the election of approximately the same number of directors at each regular biennial school election.

**Source:** **L. 64:** p. 594, § 5. **C.R.S. 1963:** § 123-31-5. **L. 67:** p. 788, §§ 1-3. **L. 75:** (9) added, p. 696, § 1, effective March 17. **L. 87:** (7)(a) to (7)(c) amended, p. 311, § 38, effective July 1. **L. 91:** (7)(a) and (7)(b) amended, p. 522, § 2, effective April 19. **L. 92:** (7.5) added and (8)(a) and (8)(b) amended, p. 515, § 2, effective June 1; (4.5) added and (7)(a)(II) amended, p. 478, § 1, effective June 4; entire article amended, p. 814, § 31, effective January 1, 1993. **L. 93:** (4.5), (7)(a)(II), and (9)(c) amended, p. 1781, § 46, effective June 6. **L. 99:** Entire section R&RE, p. 468, § 2, effective April 30. **L. 2004:** (2) and (7)(a) amended and (6.5) added, p. 534, § 1, effective August 4.

**Editor's note:** Amendments to subsection (7) in Senate Bill 92-175 and House Bill 92-1333 were harmonized. Amendments to subsections (7.5), (8)(a), and (8)(b) in House Bill 92-1003 and House Bill 92-1333 were harmonized.

**22-31-106. Persons entitled to vote at regular biennial school elections - registration required.** (1) No person shall be permitted to vote at any regular biennial school election or special school election without first having been registered in the manner required by the provisions of article 2 of title 1, C.R.S.

(2) to (5) (Deleted by amendment, L. 92, p. 819, § 31, effective January 1, 1993.)  
(6) and (7) Repealed.

**Source:** **L. 64:** p. 597, § 6. **C.R.S. 1963:** § 123-31-6. **L. 70:** pp. 179, 181, §§ 26, 2. **L. 74:** (2) and (5) amended and (6) and (7) added, pp. 373, 374, §§ 1, 2, effective March 21. **L. 75:** (5) amended and (6) and (7) repealed, pp. 686, 694, §§ 5, 18, effective July 1. **L. 80:** (4) and (5) amended, p. 408, § 4, effective January 1, 1981. **L. 87:** (1) and (3) to (5) amended, p. 311, § 39, effective July 1. **L. 92:** Entire article amended, p. 819, § 31, effective January 1, 1993.

#### ANNOTATION

**Law reviews.** For note, "Purged Voter Lists", see 44 Den. L.J. 279 (1967).

**United States citizenship requirements for voters are constitutional.** The state's United States citizenship requirements for voting in a school district election do not contravene the

equal protection clause of the fourteenth amendment. *Skaft v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

The state has a rational interest in limiting participation in government to those persons



within the political community. Aliens are not a part of the political community. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

Section 22-31-101 and this section, prohibiting permanent resident aliens from voting in school district elections, do not purport to be concerned with prohibiting from voting persons with some common trait, which trait is conclusively presumed from the status of alienage. Instead, the statutes only purport to exclude aliens from voting. Thus, they do not create a conclusive presumption. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

The prohibition against voting placed upon resident aliens does not create a conclusive presumption in violation of the due process clause of the fourteenth amendment since there is no fact presumed from the status of alienage; rather, the general assembly intended to prohibit aliens from voting, and the classification exactly achieves that purpose. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

Section 22-31-101 and this section are not invalid under the supremacy clause. *Skafe v. Rorex*, 191 Colo. 399, 553 P.2d 830 (1976), appeal dismissed, 430 U.S. 961, 97 S. Ct. 1638, 52 L. Ed. 2d 352 (1977).

### **22-31-107. Candidates for school director - call - qualification - nomination.**

(1) Any candidate for the office of school director of a school district shall have been a registered elector of the district for at least twelve consecutive months prior to the election. If the school district has a director district plan of representation or a combined director district and at-large plan of representation, the candidate shall be a resident of the director district that will be represented, unless the candidate will serve as an at-large director or has been elected at the time of or prior to the adoption of a director district plan of representation or a combined director district and at-large plan of representation by the eligible electors of the district.

(1.5) Not less than seventy-five days nor more than ninety days before the election date, the designated election official shall provide notice by publication of a call for nominations for school director candidates in the upcoming election. The call shall state the school director offices to be voted upon at the election, where a nomination petition may be obtained, the number of signatures necessary for the nomination petition, and the deadline for submitting the nomination petition.

(2) Any person who desires to be a candidate for the office of school director shall file a written notice of intention, no later than sixty-seven days before the election date, with the secretary of the board of education of the school district in which the person resides together with a nomination petition according to the provisions of section 1-4-803 and part 9 of article 4 of title 1, C.R.S. A person who desires to be a candidate for the office of school director may not circulate the nomination petition for signatures prior to ninety days before the election.

(3) and (4) (Deleted by amendment, L. 92, p. 819, § 31, effective January 1, 1993.)

(5) (a) Any person who has been convicted of commission of a sexual offense against a child shall not be eligible for the office of school director of a school district. If a person becomes ineligible pursuant to the terms of this subsection (5) while serving as a school director, a vacancy shall be deemed to exist that shall be filled as provided in section 22-31-129.

(b) For purposes of this subsection (5), "sexual offense against a child" means any of the offenses described in sections 18-3-305, 18-3-405, 18-3-405.3, 18-3-502, 18-6-301, 18-6-302, 18-6-403, 18-6-404, and 18-7-402 to 18-7-406, C.R.S., and any of the offenses described in sections 18-3-402 to 18-3-404 and 18-7-302, C.R.S., where the victim is less than eighteen years of age. "Sexual offense against a child" also means attempt, solicitation, or conspiracy to commit any of the offenses specified in this paragraph (b).

(c) For purposes of this subsection (5), "convicted" includes having pleaded guilty or nolo contendere or having received a deferred judgment and sentence; except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence.

**Source:** L. 64: p. 598, § 7. C.R.S. 1963: § 123-31-7. L. 71: p. 563, § 47. L. 73: pp. 594, 1285, §§ 59, 60, 1. L. 74: Entire section R&RE, p. 369, § 3, effective March 21.

**L. 75:** (1) and (2) amended, p. 687, § 6, effective July 1. **L. 92:** Entire article amended, p. 819, § 31, effective January 1, 1993. **L. 94:** (2) amended, p. 1181, § 77, effective July 1. **L. 98:** (1) amended and (5) added, p. 290, § 1, effective July 1. **L. 99:** (1) amended, p. 473, § 3, effective April 30. **L. 2006:** (1) and (2) amended and (1.5) added, p. 1022, § 2, effective May 25. **L. 2010:** (5)(b) amended, (SB 10-140), ch. 156, p. 540, § 11, effective April 21.

**22-31-108. Adoption, modification, or elimination of director district plan of representation. (Repealed)**

**Source:** **L. 64:** p. 598, § 8. **C.R.S. 1963:** § 123-31-8. **L. 69:** p. 1034, § 1. **L. 71:** p. 1164, § 1. **L. 87:** (6) amended, p. 312, § 40, effective July 1. **L. 92:** Entire article amended, p. 820, § 31, effective January 1, 1993. **L. 99:** Entire section repealed, p. 474, § 4, effective April 30.

**22-31-109. Specifications for director districts.** (1) Except for director districts established pursuant to section 22-31-131, in school districts having a director district plan of representation or a combined director district and at-large plan of representation where all members of the board of education are voted on by the eligible electors of the entire school district:

(a) At least one member of the board of education of the school district shall be elected from each of the director districts;

(b) Director districts shall be contiguous, compact, and as nearly equal in population as possible;

(c) Director districts shall be not less than five nor more than seven in number.

(2) In school districts having a director district plan of representation or a combined director district and at-large plan of representation where some or all of the members of the board of education are voted on by the eligible electors of a director district:

(a) At least one member of the board of education of the school district shall be elected from each of the director districts;

(b) Director districts shall be contiguous, compact, and composed of whole precincts as established, pursuant to section 1-5-101, C.R.S., by the clerk of the county in which the precinct is located;

(c) Director districts shall be as nearly equal in population as possible, based upon the most recent federal census of the United States, minus the number of persons serving a sentence of detention or confinement in any correctional facility located in a director district, as indicated in the statistical report of the department of corrections for the most recent fiscal year;

(d) Director districts shall be not less than five nor more than seven in number.

**Source:** **L. 64:** p. 600, § 9. **C.R.S. 1963:** § 123-31-9. **L. 69:** p. 1035, § 2. **L. 71:** p. 1165, § 2. **L. 87:** Entire section amended, p. 313, § 41, effective July 1. **L. 92:** Entire article amended, p. 821, § 31, effective January 1, 1993. **L. 99:** Entire section amended, p. 474, § 5, effective April 30. **L. 2004:** Entire section amended, p. 536, § 2, effective August 4.

**22-31-110. Changes in director districts.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), not later than December 31, 1972, and not later than December 31 of every fourth year thereafter, the board of education of each school district having a director district plan of representation or a combined director district and at-large plan of representation shall determine the population in each of the director districts and, if each director district does not contain substantially the same number of persons as each of the other director districts, it shall be the duty of the board, by resolution, to revise the director district boundaries and redesignate the director districts to comply with the specifications prescribed in section 22-31-109 without changing the number of director districts.



(b) (I) The provisions of this section shall not apply to any school district coterminous with a city and county. The director districts for any such school district shall be established as provided in section 22-31-131.

(II) Notwithstanding the other provisions of this section, for school districts in which members of the board of education are voted on by eligible electors of a director district, not later than March 1 of the year following the year in which the election is conducted pursuant to section 22-31-105 (6.5), not later than March 1, 2012, and not later than March 1 every tenth year thereafter, the board of education of each such school district shall determine the population in each of the director districts and, if each director district does not contain substantially the same number of persons as each of the other director districts, it shall be the duty of the board, by resolution, to revise the director district boundaries and redesignate the director districts to comply with the specifications prescribed in section 22-31-109 (2) without changing the number of director districts.

(2) The revision of director district boundaries and redesignation of the director districts shall become effective immediately upon adoption of the resolution by the board of education, but the revision and redesignation shall not operate to terminate the office of any school director holding office at the time of adoption of the resolution. The revision and redesignation shall be, thereafter, effective for filling of vacancies and the election of any school directors at any subsequent regular biennial school election. In the event that, as a result of a revision and redesignation, two or more members of the board of education reside in the same new director district, and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district which does not then have a representative on the board of education.

(3) If the board of education has not revised the director district boundaries and redesignated the director districts as required by subsection (1) of this section, any eligible elector of the district may file, not later than January 15 next following the December 31 by which such revision and redesignation was to be accomplished, an action in the district court of the judicial district in which the principal administrative headquarters of the school district are located to require the board of education to revise the director district boundaries and redesignate the director districts no later than February 28 next following.

(4) Director district boundaries shall not be subject to alteration more often than twice every four years.

**Source:** L. 64: p. 600, § 10. C.R.S. 1963: § 123-31-10. L. 69: p. 1035, § 3. L. 71: p. 1166, § 3. L. 80: (4) amended, p. 424, § 3, effective January 1, 1981. L. 87: (2) and (3) amended, p. 313, § 42, effective July 1. L. 92: Entire article amended, p. 822, § 31, effective January 1, 1993. L. 99: (1) amended, p. 474, § 6, effective April 30. L. 2004: (1)(b) amended, p. 536, § 3, effective August 4.

#### ANNOTATION

In this section the general assembly expressly contemplated changes in director district boundaries to correct disparities of population. Sch. Dist. No. 1 v. Sch. Planning

Comm., 164 Colo. 541, 437 P.2d 787 (1968) (decided under repealed § 123-31-10, C.R.S. 1963).

#### 22-31-111. Precincts and polling places. (Deleted by amendment)

**Source:** L. 64: p. 600, § 11. C.R.S. 1963: § 123-31-11. L. 73: pp. 595, 1285, §§ 61, 2. L. 74: Entire section R&RE, p. 370, § 4, effective March 21. L. 75: (1) R&RE, p. 687, § 7, effective July 1. L. 92: Entire article amended, p. 822, § 31, effective January 1, 1993.

**22-31-112. Judges. (Deleted by amendment)**

**Source:** L. 64: p. 601, § 12. C.R.S. 1963: § 123-31-12. L. 73: p. 595, § 62. L. 74: (1) and (4) R&RE, p. 370, § 5, effective March 21. L. 84: (4)(a) and (4)(b) amended, p. 593, § 1, effective March 26. L. 87: (1) amended, p. 313, § 43, effective July 1. L. 92: Entire article amended, p. 823, § 31, effective January 1, 1993.

**22-31-113. Notice of school election. (Deleted by amendment)**

**Source:** L. 64: p. 602, § 13. C.R.S. 1963: § 123-31-13. L. 75: Entire section amended, p. 688, § 8, effective July 1. L. 92: Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-113.5. Election may be cancelled - when. (Deleted by amendment)**

**Source:** L. 87: Entire section added, p. 313, § 44, effective July 1. L. 92: Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-114. Ballots, ballot boxes, voting machines, and electronic voting equipment. (Deleted by amendment)**

**Source:** L. 64: p. 602, § 14. C.R.S. 1963: § 123-31-14. L. 74: (3) added, p. 371, § 6, effective March 21. L. 75: (1) amended and (4) added, p. 688, § 9, effective July 1. L. 80: (4) amended, p. 408, § 5, effective January 1, 1981. L. 81: (4) amended, p. 2026, § 21, effective July 1. L. 92: Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-115. Pollbooks - certificate of return. (Deleted by amendment)**

**Source:** L. 64: p. 603, § 15. C.R.S. 1963: § 123-31-15. L. 92: Entire article amended, p. 825, § 31, effective January 1, 1993.

**22-31-116. Hours of voting. (Deleted by amendment)**

**Source:** L. 64: p. 604, § 16. C.R.S. 1963: § 123-31-16. L. 92: Entire article amended, p. 826, § 31, effective January 1, 1993.

**22-31-117. Voting at school elections. (Deleted by amendment)**

**Source:** L. 64: p. 604, § 17. C.R.S. 1963: § 123-31-17. L. 74: (1) amended, p. 375, § 3, effective March 21. L. 87: (1) amended, p. 314, § 45, effective July 1. L. 92: Entire article amended, p. 826, § 31, effective January 1, 1993.

**22-31-118. Watchers. (Deleted by amendment)**

**Source:** L. 64: p. 605, § 18. C.R.S. 1963: § 123-31-18. L. 92: Entire article amended, p. 827, § 31, effective January 1, 1993.

**22-31-119. Absentee voting. (Deleted by amendment)**

**Source:** L. 64: p. 605, § 19. C.R.S. 1963: § 123-31-19. L. 73: p. 1287, § 1. L. 74: (6) added, p. 375, § 4, effective March 21. L. 75: (3) amended, p. 689, § 10, effective July 1. L. 77: (3) amended, p. 233, § 6, effective June 19. L. 80: (1) and (2) amended, p. 408, § 6, effective January 1, 1981. L. 92: Entire article amended, p. 827, § 31, effective January 1, 1993.



**22-31-120. Registration list omissions - challenges - oaths - rejection. (Deleted by amendment)**

**Source:** L. 64: p. 606, § 20. C.R.S. 1963: § 123-31-20. L. 70: p. 179, § 27. L. 71: pp. 563, 1149, §§ 48, 5. L. 72: pp. 316, 567, §§ 45, 45. L. 74: (1) amended, p. 375, § 5, effective March 21; (5)(a) amended, p. 419, § 68, effective April 11. L. 80: (4) amended, p. 409, § 7, effective January 1, 1981. L. 87: (2) amended, p. 314, § 46, effective July 1. L. 92: Entire article amended, p. 827, § 31, effective January 1, 1993.

**22-31-121. Count and certification of votes. (Deleted by amendment)**

**Source:** L. 64: p. 607, § 21. C.R.S. 1963: § 123-31-21. L. 92: Entire article amended, p. 828, § 31, effective January 1, 1993.

**22-31-122. Return of ballot box, pollbook, and registration list. (Deleted by amendment)**

**Source:** L. 64: p. 607, § 22. C.R.S. 1963: § 123-31-22. L. 92: Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-123. Tie votes. (Deleted by amendment)**

**Source:** L. 64: p. 608, § 23. C.R.S. 1963: § 123-31-23. L. 92: Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-124. Canvass of votes - certificate of election. (Deleted by amendment)**

**Source:** L. 64: p. 608, § 24. C.R.S. 1963: § 123-31-24. L. 73: p. 1288, § 1. L. 92: Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-125. Oath of directors.** Each director shall, no later than ten days after he or she receives the certificate of election pursuant to section 1-11-103, C.R.S., or appointment pursuant to section 22-31-129 (2), appear before some officer authorized to administer oaths or before the president of the board of education and take an oath that the director will faithfully perform the duties of the office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. The oath shall be filed with the designated election official for the school district. In case a director fails to take the oath within the period, the office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

**Source:** L. 64: p. 608, § 25. C.R.S. 1963: § 123-31-25. L. 75: Entire section amended, p. 689, § 11, effective July 1. L. 92: Entire article amended, p. 830, § 31, effective January 1, 1993. L. 94: Entire section amended, p. 1181, § 78, effective July 1. L. 2006: Entire section amended, p. 1023, § 3, effective May 25.

**22-31-126. Preservation of ballots. (Deleted by amendment)**

**Source:** L. 64: p. 608, § 26. C.R.S. 1963: § 123-31-26. L. 75: Entire section amended, p. 689, § 12, effective July 1. L. 92: Entire article amended, p. 930, § 31, effective January 1, 1993.

**22-31-127. Contests. (Deleted by amendment)**

**Source:** L. 64: p. 609, § 27. C.R.S. 1963: § 123-31-27. L. 75: Entire section amended, p. 689, § 13, effective July 1. L. 87: Entire section amended, p. 314, § 47, effective July 1. L. 92: Entire article amended, p. 830, § 31, effective January 1, 1993.

**22-31-128. Recall of school directors. (Deleted by amendment)**

**Source:** L. 64: p. 609, § 28. C.R.S. 1963: § 123-31-28. L. 73: pp. 1290, 1416, §§ 1, 91. L. 74: (1)(b) amended, p. 371, § 7, effective March 21. L. 75: (1)(a) to (1)(c), (1)(d)(I), (1)(d)(II), (2), and (4)(a) amended, p. 690, § 14, effective July 1. L. 77: (1)(e) amended, p. 1047, § 1, effective April 24. L. 81: (1)(e) and (2)(a) amended, p. 1062, § 1, effective May 22. L. 82: (1)(c)(II) amended, p. 624, § 20, effective April 2. L. 83: (1) (b), (1)(c)(II) to (1)(c)(V), and (1)(d)(I) amended, p. 746, § 1, effective May 23. L. 87: (1)(d)(I), (2)(a)(I), and (4) amended, p. 314, § 48, effective July 1. L. 88: (2.5) added, p. 295, § 7, effective May 29. L. 92: Entire article amended, p. 830, § 31, effective January 1, 1993.

**22-31-129. Vacancies.** (1) A school director office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(a) If for any reason a school director is not elected to a school director office by the eligible electors as may be required at a regular biennial school election;

(b) If the person who was duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office as provided in section 22-31-125;

(c) If the person who was duly elected or appointed submits a written resignation to the board of education and such resignation has been duly accepted by the board of education;

(d) If the person who was duly elected or appointed is or becomes during the term of office a nonresident of the school district in which the person was elected or, in the event the district has a director district plan of representation or a combined director district and at-large plan of representation, if the director is or becomes during the term of office a nonresident of the director district which the director represents unless the director has been elected at the time of or prior to the adoption of a director district plan of representation or a combined director district and at-large plan of representation by the electors or prior to a revision and redesignation of director district boundaries;

(e) If the person who was duly elected or appointed is found guilty of a felony;

(f) If a court of competent jurisdiction voids the officer's election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or otherwise exhausted;

(g) If a court of competent jurisdiction determines that the person duly elected or appointed is insane or otherwise mentally incompetent, but only after the right to appeal has been waived or otherwise exhausted, and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the insanity or mental incompetency is of such a degree that the person is incapable of serving as a school director;

(h) If the person who was duly elected or appointed does not attend three consecutive regular meetings of the board of education, unless the board by resolution shall approve any additional absences or unless the absences are due to a temporary mental or physical disability or illness;

(i) If the person who was duly elected or appointed dies during the term of office.

(2) At the next board of education meeting immediately following the occurrence of any condition specified in subsection (1) of this section, the board of education of the district shall adopt a resolution declaring a vacancy in the school director office, and the board of education of the school district in which the vacancy occurs shall appoint a person to fill the vacancy within sixty days after the vacancy has occurred. If the appointment is not made by the board within the sixty-day period, the president of the board shall forthwith



appoint a person to fill the vacancy. The appointment shall be evidenced by an appropriate entry in the minutes of the meeting and the board shall cause a certificate of appointment to be delivered to the person so appointed. A duplicate of each certificate of appointment shall be forwarded to the department of education.

(3) If the vacancy occurs more than ninety days prior to the next regular biennial school election and the unexpired term is for more than two years, an appointee to the office of school director shall serve until the next regular biennial school election when the successor for the remainder of the term is elected and has qualified. If the vacancy occurs within the ninety-day period prior to a regular biennial school election and the unexpired term is for more than two years, an appointee to the office of school director shall serve until the next succeeding regular biennial school election when a successor for the remainder of the term is elected and has qualified. Except as otherwise provided in this subsection (3), an appointee to the office of school director shall serve for the remainder of the unexpired term.

(4) Whenever the filling of a vacancy, as provided in subsection (3) of this section, causes terms of different duration to be open at the time of the regular election in a school district which has an at-large plan of representation or a combined director district and at-large plan of representation, candidates running at large shall designate the term for which they are running in accordance with section 1-4-803 (3), C.R.S.

**Source:** L. 64: p. 611, § 29. C.R.S. 1963: § 123-31-29. L. 71: p. 1167, § 1. L. 73: p. 1285, § 3. L. 75: (1)(g) amended, p. 928, § 35, effective July 1; (1)(h) amended, p. 692, § 15, effective July 1. L. 77: (3) amended, p. 1048, § 1, effective July 1. L. 92: Entire article amended, p. 834, § 31, effective January 1, 1993. L. 93: (4) amended, p. 1782, § 47, effective June 6. L. 95: (1)(g) amended, p. 1100, § 26, effective May 31. L. 96: (3) amended, p. 1766, § 57, effective July 1. L. 99: (1)(d) and (4) amended, p. 474, § 7, effective April 30. L. 2006: (1)(b) amended, p. 1023, § 4, effective May 25. L. 2010: (1)(g) amended, (SB 10-175), ch. 188, p. 793, § 47, effective April 29.

## **22-31-130. School election offenses. (Deleted by amendment)**

**Source:** L. 64: p. 613, § 30. C.R.S. 1963: § 123-31-30. L. 74: Entire section amended, p. 371, § 8, effective March 21. L. 77: Entire section amended, p. 280, § 26, effective June 29. L. 80: Entire section amended, p. 439, § 4, effective January 1, 1981. L. 92: Entire article amended, p. 835, § 31, effective January 1, 1993.

## **22-31-131. Election procedures in districts composed of a city and county.**

(1) The regular biennial school election in each school district coterminous with a city and county shall be held on the first Tuesday in November of each odd-numbered year, shall be conducted and supervised by the election commission of the city and county, and shall be governed by the provisions of articles 1 to 13 of title 1, C.R.S.

(1.5) (a) The general assembly hereby finds and declares that:

(I) In enacting section 7 of article XX of the state constitution, the people of the state of Colorado recognized the uniqueness of the city and county of Denver and provided for the city and county of Denver to constitute a single school district, district number 1;

(II) Section 7 of article XX of the state constitution, provides that the conduct, affairs, and business of district number 1 for the city and county of Denver be in the hands of a board of education consisting of such numbers and elected in such manner as the general school laws of the state shall provide;

(III) The principle of shared decision-making by the board of education, the individual school, and the parents of children enrolled in the individual school is being stressed in district number 1;

(IV) All communities of district number 1, especially the parents of pupils enrolled in the district, should be represented on the board of education and the views of such communities will be better represented if five of the seven members of the board of education are elected under a director district plan of representation;

(V) Such a director district plan of representation for district number 1 would promote accountability of members of the board of education of district number 1 to the needs of their constituents.

(b) (I) On and after January 1, 1993, each school district coterminous with a city and county shall elect a seven-member board of education with one eligible elector elected from each of five director districts and two eligible electors elected from the district at large. Directors elected from each of the five director districts shall be voted on by the eligible electors residing within the director district only, but the two directors elected at large shall be voted on by the electors of the entire district. Directors shall be elected for four-year terms.

(II) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(c) (I) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(II) The board of education for school district number 1 shall provide for the revision of the director district boundaries following each federal census.

(1.7) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(2) to (11) (Deleted by amendment, L. 92, p. 835, § 31, effective January 1, 1993.)

(12) (a) (Deleted by amendment, L. 2006, p. 606, § 23, effective August 7, 2006.)

(b) and (c) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

**Source:** L. 64: p. 613, § 31. C.R.S. 1963: § 123-31-31. L. 70: p. 179, § 28. L. 74: (1) R&RE and (4) amended, p. 372, §§ 9, 10, effective March 21. L. 75: Entire section R&RE, p. 693, § 16, effective July 1. L. 87: (2) amended, p. 315, § 49, effective July 1. L. 92: (1.5) added and (3), (4), and (6) amended, p. 479, § 2, effective June 4; entire article amended, p. 835, § 31, effective January 1, 1993. L. 93: (1.5)(b)(I) amended, p. 1782, § 48, effective June 6; (1.5)(c)(I)(D) and (1.5)(c)(I)(E) amended, p. 1460, § 5, effective June 6. L. 94: (1), (1.5)(c)(I)(A), (1.5)(c)(I)(C), (1.5)(c)(I)(D), and (1.5)(c)(I)(E) amended and (1.7) added, p. 1181, § 79, effective July 1. L. 99: (1.5)(c)(II) amended and (12) added, p. 475, § 8, effective April 30. L. 2004: (1), (1.5)(b)(II), (1.5)(c), (1.7), and (12) amended, p. 195, § 14, effective August 4. L. 2006: (1.5)(c)(II) and (12)(a) amended, p. 606, § 23, effective August 7.

**Editor's note:** Amendments to subsection (1.5) by Senate Bill 92-175 and House Bill 92-1333 were harmonized. Subsections (3), (4), and (6) were amended by Senate Bill 92-175. Those amendments were superseded by the amendment of the entire article by House Bill 92-1333.

**22-31-132. Article not applicable to junior colleges.** This article shall not apply to junior college districts, unless the junior college board of trustees elects to participate in the regular biennial school election, as provided in section 23-71-110 (5) and (7), C.R.S.

**Source:** L. 64: p. 616, § 35. C.R.S. 1963: § 123-31-32. L. 67: p. 192, § 2. L. 75: Entire section amended, p. 786, § 4, effective July 1. L. 86: Entire section amended, p. 844, § 1, effective July 1. L. 92: Entire article amended, p. 837, § 31, effective January 1, 1993. L. 93: Entire section amended, p. 1782, § 49, effective June 6.

**22-31-133. Present school directors not removed.** This article shall not be construed to remove any school director from office during the term for which the officer was elected or appointed, but shall apply to the election and appointment of directors after July 1, 1964.

**Source:** L. 64: p. 616, § 37. C.R.S. 1963: § 123-31-34. L. 92: Entire article amended, p. 837, § 31, effective January 1, 1993.

**22-31-134. Validation.** All school elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any school district, under law or under color of law, preliminary to and in the holding and survey of all school



elections are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise, and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

**Source:** L. 71: p. 1151, § 10. C.R.S. 1963: § 123-31-35. L. 92: Entire article amended, p. 837, § 31, effective January 1, 1993.

## ARTICLE 32

### School District Boards - Powers and Duties

**Cross references:** For standards of conduct for directors, see article 18 of title 24; for authority for a school district to operate a system of public recreation and playgrounds and television relay translator facilities, see § 29-7-102.

**Law reviews:** For article, "Drug Testing of Student Athletes: Some Contract and Tort Implications", see 67 Den. U. L. Rev. 279 (1990).

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**22-32-101. Corporate status of school districts.** Each regularly organized school district heretofore or hereafter formed is declared to be a body corporate with perpetual existence, and in its name it may hold property for any purpose authorized by law, sue and be sued, and be a party to contracts for any purpose authorized by law.

**Source:** L. 64: p. 573, § 1. C.R.S. 1963: § 123-30-1.

#### ANNOTATION

**Annotator's note.** Since § 22-32-101 is similar to § 123-10-1, CRS 53, CSA, C. 146, § 73, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

A school district is a body corporate with power to sue and be sued and has the power to compromise actions and claims. Sch. Dist. No. 1 v. Faker, 106 Colo. 356, 105 P.2d 406 (1940).

Individual taxpayers do not own the school house or other property nor have they any legal or equitable interest in it. Gorrell v. Bevans, 66 Colo. 67, 179 P. 337 (1919).

The status of taxpayers is analogous to that of stockholders, which neither equity nor law will protect, except through the corporation, till that body is shown to be hostile or at least negligent of their rights after request. Gorrell v. Bevans, 66 Colo. 67, 179 P. 337 (1919).

A school district is immune from negligence liability. A school district as a subdivision of the state of Colorado is immune from liability for negligence under the settled pronouncements of the supreme court. Tesone v. Sch. Dist. No. RE-2, 152 Colo. 596, 384 P.2d 82 (1963) (decided prior to enactment of the "Colorado Gov-



ernmental Immunity Act", article 10 of title 24).

**There is no question that school districts are political subdivisions of the state**, created by law and supported in their activities with public funds. *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**School districts' status as political subdivisions does not disentitle them from bringing an action under the supremacy clause** to enforce the terms of the Colorado Enabling Act merely because the defendant state officials are sued in their official capacities representing the state that created those subdivisions. *Branson Sch. Dist. RE-82 v. Romer*, 161 F.3d 619 (10th Cir. 1998).

**Financial maintenance of public schools held not to be local or municipal matter.** *Wilmore v. Annear*, 100 Colo. 106, 65 P.2d 1433 (1937).

**22-32-102. Corporate status - when questioned.** Except when the corporate status of a school district has been dissolved as provided by law, each school district which has undisputedly exercised the prerogatives and privileges of a legally formed school district during a period of twelve consecutive months following the first election of its school directors shall be deemed to be a de jure school district, and the corporate status thereof shall not thereafter be questioned.

**Source:** L. 64: p. 573, § 2. C.R.S. 1963: § 123-30-2.

#### ANNOTATION

**Annotator's note.** Since § 22-32-102 is similar to laws antecedent to C.S.A. 1935, relevant cases construing those provisions have been included in the annotations to this section.

**The purpose of this section** was to limit the right to question, after the lapse of one year, the legality of a school district created either by irregular compliance or noncompliance with the law. *Smith v. Joint Sch. Dist. No. 3*, 88 Colo. 309, 295 P. 794 (1931).

**This section establishes a conclusive presumption of legality.** This section establishes a conclusive presumption that a school district, openly and notoriously in the exercise and enjoyment of the franchises, privileges, and prerogatives of a school district for one year, is a legally constituted school district and that its legality cannot be questioned. *People ex rel. Mulligan v. Girardot*, 70 Colo. 444, 202 P. 111 (1921); *Smith v. Joint Sch. Dist. No. 3*, 88 Colo. 309, 295 P. 794 (1931).

**Where one school district has permitted another school district to exercise the prerogatives and enjoy the privileges of a legally-formed district for a period of one year next**

**A school board's participation in collective bargaining is not per se an unlawful delegation of its authority.** *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976).

**Collective bargaining agreements between a county school board and a local education association** which did not provide for binding arbitration of unresolved disputes and which gave board power to make final decision on all unresolved issues, without further negotiation, was not invalid as an unlawful delegation of authority. *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976).

**Applied in** *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982).

succeeding the election of its officers, over the territory in dispute, then, under the provisions of this section, it has lost that portion of its territory. *People ex rel. Sch. Dist. No. 5 v. Van Horn*, 20 Colo. App. 215, 77 P. 978 (1904).

**It is a legitimate statute of limitations.** This is a wholesome and a legitimate statute of limitations entirely within the power of the general assembly, and if a school district brings itself within its terms, its organization cannot be questioned. *Shaw v. Lockett*, 14 Colo. App. 413, 60 P. 363 (1900).

**Under this section trespassers and squatters on private property may organize school districts** within the boundaries of private ownership and levy taxes at their pleasure for the support and maintenance of schools unless the proper procedure is instituted to restrain them. *Shaw v. Lockett*, 14 Colo. App. 413, 60 P. 363 (1900).

**Statute must be pleaded.** When the application of the statute is dependent on matters beyond the record it must not only be pleaded, but the pleader must produce proof of the facts which permit or compel its application. *Shaw v. Lockett*, 14 Colo. App. 413, 60 P. 363 (1900).

**22-32-103. Board of education - general powers and duties.** (1) Each school district shall be governed by a board of education consisting of the number of school directors prescribed by law. Such board of education shall possess all powers delegated to

a board of education or to a school district by law, and shall perform all duties required by law.

(2) Each school director shall have access to all school records at all times.

**Source:** L. 64: p. 573, § 3. C.R.S. 1963: § 123-30-3.

**Cross references:** For district liability for tuition and limitations concerning same, see § 22-32-115.

### ANNOTATION

**No power to make expenditures relating to proposed constitutional amendment.** This section does not empower a board of education to make expenditures in support of the opposition to a proposed constitutional amendment. *Campbell v. Joint Dist. 28-J*, 704 F.2d 501 (10th Cir. 1983).

**Effect of collective bargaining agreement on teachers' claims against board.** Where senior high school English teachers brought suit claiming that the action of the school district

board of education in prohibiting the use of certain books as instructional material constituted an infringement of academic freedom, such claims must be denied where all the teachers of the district, through a bargaining agent, entered a collective bargaining agreement with the school board in which final authority for the choice of instructional material was yielded to the school board. *Cary v. Bd. of Educ.*, 427 F. Supp. 945 (D. Colo. 1977), *aff'd*, 598 F.2d 535 (10th Cir. 1979).

**22-32-104. Organization of board of education.** (1) Within fifteen days after a school district receives the official abstract of votes pursuant to section 1-10-102, C.R.S., the incumbent secretary of the school district shall call a special meeting of the board of education of the district for the purpose of selecting officers of the board. At the meeting the incumbent president of the board shall preside until a successor has been elected and qualified.

(2) The officers of a board of education of a school district shall be a president, a vice-president, a secretary, and a treasurer, and, at the discretion of the board, an assistant secretary and an assistant treasurer. One person may simultaneously hold the offices of secretary and treasurer, or the offices of assistant secretary and assistant treasurer if there be such offices.

(3) The president and vice-president shall be members of the board, shall be elected by a majority of the board, and shall each hold office for a term of two years and until a successor has been elected and qualified. Whenever a vacancy occurs in either office, the remaining members of the board shall elect a successor to fill the vacancy for the unexpired term. A vacancy shall occur in either office under the same conditions and in the same manner prescribed for a vacancy occurring in the office of a school director. Whenever a vacancy occurs in the office of a school director who is also president or vice-president of the board, nothing contained in this section shall be construed to mean that the person appointed to fill the vacant office of school director shall also be entitled to serve as such officer of the board.

(4) (a) The secretary and treasurer, and the assistant secretary and assistant treasurer if there be such offices, shall be appointed by the board. They may or may not be members of the board and shall hold their offices at the pleasure of the board.

(b) No person shall enter upon the office of secretary or treasurer, or assistant secretary or assistant treasurer if there be such offices, until he has given a surety bond, in form satisfactory to the board, in the amount of five thousand dollars, conditioned upon the faithful performance of his duties as required by law and prescribed by the bylaws of the board of education. In addition, the treasurer, and the assistant treasurer if there be such office, shall give bond in such further amount, in such form, and for such purposes as the board may require.

(c) The board may also appoint and authorize any other person to act as custodian of moneys belonging to the district. Such person shall give surety bonds, in such amount and form and for such purposes as the board may require.



(5) The secretary, assistant secretary, treasurer, and assistant treasurer may be compensated for their services in such capacities in an amount determined by the board of education, but the president and vice-president shall receive no compensation for their services in such capacities. All officers shall be reimbursed for necessary expenses incurred in the performance of their duties in an official capacity.

**Source:** L. 64: p. 574, § 4. C.R.S. 1963: § 123-30-4. L. 77: (4)(c) added, p. 575, § 4, effective June 10. L. 94: (1) amended, p. 1187, § 80, effective July 1. L. 2006: (1) amended, p. 1024, § 5, effective May 25. L. 2007: (1) amended, p. 1984, § 39, effective August 3.

**22-32-105. Duties - president and vice-president.** (1) The president of the board shall preside at all meetings of the board. He shall sign any written contract to which the school district may be a party when such contract has been authorized by the board, and he shall sign all official reports of the district except when otherwise provided by law.

(2) In the absence or inability of the president, the vice-president shall have and perform all of the powers and duties of the president.

**Source:** L. 64: p. 575, § 5. C.R.S. 1963: § 123-30-5.

#### ANNOTATION

**“Absence” is not the same as “removal”.** In a proceeding involving school directors and involving “removal” from the district, it is held that “absence” from the district is one thing, “removal” another, and that separate and dis-

tinct statutory provisions (this and § 22-31-129) relating thereto cannot both apply to the same case. *Harris v. People ex rel. Gonzales*, 102 Colo. 496, 81 P.2d 383 (1938) (decided under repealed CSA, C. 146, § 103).

**22-32-106. Duties - secretary.** (1) The secretary of the board shall cause written notice to be given to each member of the board of all special meetings of the board. He shall cause minutes of each meeting of the board to be kept and preserved. He shall cause all notices of election to be published and posted when so required by law. He shall be custodian of the seal of the district, shall attest any written contract to which the district may be a party when such contract has been authorized by the board, and shall affix the seal thereto. He shall perform such other duties as may be assigned to him by the board.

(2) In the absence or inability of the secretary, the assistant secretary, if any, or an officer of the board designated by the president if there is no assistant secretary, shall perform the duties of the secretary.

**Source:** L. 64: p. 575, § 6. C.R.S. 1963: § 123-30-6.

**22-32-107. Duties - treasurer.** (1) The treasurer of the board shall account for all moneys belonging to the district, or coming into its possession, and shall render a report thereof when so required by the board.

(2) In all cases where moneys belonging to a district remain in the custody of the county treasurer, all warrants or orders drawn on the county treasurer in payment of lawfully incurred and properly authorized obligations of the district shall bear the written or facsimile signature of the treasurer of the board and, if required by the board, the written countersignature of any other person designated by the board.

(3) In all cases where the moneys belonging to a district are withdrawn from the custody of the county treasurer, such withdrawn moneys and all other moneys belonging to the district shall be deposited by the treasurer of the board or such other custodians authorized and appointed by the board to the credit of the district in one or more depositories designated by the board. All checks in payment of lawfully incurred and properly authorized obligations of the district drawn on any such depository shall bear the written or facsimile signature of the treasurer or custodian and, if required by the board, the written countersignature of any other person designated by the board.

(4) The board, by appropriate resolution, may authorize the treasurer or any custodian employed by the district to deposit, or cause to be deposited, any moneys derived from food services or operation of a lunchroom or from other school activities or any other moneys received by the district, in such depository as it may designate, and may likewise authorize the treasurer or custodians employed by the district to sign checks drawn on any such depository in payment of lawfully incurred and properly approved expenditures.

(5) The treasurer shall perform such other duties as may be assigned to him by the board.

(6) In the absence or inability of the treasurer, the assistant treasurer, if any, or an officer of the board designated by the president, if there is no assistant treasurer or other custodians appointed by the board, shall perform the duties of the treasurer.

**Source:** L. 64: p. 575, § 7. C.R.S. 1963: § 123-30-7. L. 77: (3), (4), and (6) amended, p. 575, § 5, effective June 10.

#### ANNOTATION

**Applied** in *Parr v. Sexson*, 56 Colo. 491, 138 P. 768 (1914) (decided under repealed laws antecedent to CSA, C. 146, § 112); *Denver Ass'n*

for Retarded Children v. Sch. Dist. No. 1, 188 Colo. 310, 535 P.2d 200 (1975).

**22-32-108. Meetings of the board of education.** (1) Regular meetings of the board of education of a school district shall be held at the time and place provided for in its bylaws. Special meetings may be called by the president at any time, and shall be called by him upon written request of a majority of the members of the board.

(2) The secretary of the board shall cause written notice of any special meeting to be mailed or delivered to each member of the board stating the time, place, and purpose of the meeting; if the notice is delivered, it shall be in the hands of the member no later than twenty-four hours prior to the hour set for the meeting, and if it is mailed, it shall be mailed no later than seventy-two hours prior to the hour set for the meeting.

(3) Any member may waive notice of the time, place, and purpose of a special meeting at any time before, during, or after such meeting, and attendance thereat shall be deemed to be a waiver.

(4) At any special meeting, no business other than that stated in the notice of said meeting shall be transacted, unless all members are present and shall consent to consider and transact other business.

(5) (a) All regular and special meetings of the board shall be open to the public, but any person who disturbs good order may be required to leave. At any regular or special meeting the board may proceed in executive session, at which only those persons invited by the board may be present, but no final policy decisions shall be made by the board while in executive session.

(b) The board shall make a recording of each regular and special meeting of the board at which votes are taken and recorded and shall make the recording available to the public. The board, at its discretion, shall use appropriate technology that is available within the school district at the time the recording is made and shall, at a minimum, make an audio recording. An individual or entity may request a copy of a recording and shall pay the costs the board incurs in providing the copy, pursuant to section 24-72-205, C.R.S.

(c) The board shall institute a policy requiring, at a minimum, retaining recordings of board meetings made pursuant to this subsection (5) for a minimum of ninety days.

(6) All voting at any meeting shall be by roll call. The names of the members shall be called alphabetically, and each member present shall orally vote "Aye" or "No" upon each question unless excused from voting by the board for good cause. Election of the president and vice-president may be by secret ballot.

**Source:** L. 64: p. 576, § 8. C.R.S. 1963: § 123-30-8. L. 2009: (5) amended, (HB 09-1082), ch. 67, p. 234, § 1, effective August 5.



## ANNOTATION

**This section and § 29-9-101 to be read together.** Both sections apply to meetings of boards of education and should be read together. *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**This section does not supersede § 29-9-101** even though it is more specific. *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**This section and § 29-9-101 are remedial**, designed precisely to prevent the abuse of "secret or 'star chamber' sessions of public bodies". *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**The sections should be interpreted most favorably for the beneficiary, the public.** *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**Board may act only publicly and by roll call.** This section, which requires that all voting at any meeting shall be by roll call, means that a school board may act only at public meetings and only then by way of roll call vote. *Robb v. Sch. Dist. No. RE 50(J)*, 28 Colo. App. 453, 475 P.2d 30 (1970).

**Since no roll call vote was taken to "deem" plaintiff unsatisfactory as an administrator**, the board's action in purportedly so doing was a nullity and of no consequence, and plaintiff's contract as a teacher-principal was operational and enforceable until the proper procedural action was taken by the board to deem him unsatisfactory and to transfer him to a teaching position only. *Robb v. Sch. Dist. No. RE 50(J)*, 28 Colo. App. 453, 475 P.2d 30 (1970).

**Signing of annexation petition by superintendent without formal board authorization was not an act of the board.** In view of the requirement that the board of education act only at public meetings and on roll call vote, the act of the superintendent of schools in signing an annexation petition without formal authorization by the board of education was not an act of the board. *Gavend v. City of Thornton*, 165 Colo. 182, 437 P.2d 778 (1968) (decided under repealed § 123-10-18, C.R.S. 1963).

**This section contemplates that a school board may make some decisions in executive session.** *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), aff'd, 188 Colo. 262, 535 P.2d 206 (1975).

**"Final policy decisions" must be made in public meetings.** *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), aff'd, 188 Colo. 262, 535 P.2d 206 (1975).

This section precludes the board from making decisions of a general nature or adopting a broad course of action in an executive session. *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), aff'd, 188 Colo. 262, 535 P.2d 206 (1975).

**Mere acceptance for review of charges against teacher is not "policy decision"** referred to in statute. *Dugan v. Bollman*, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**"Rubber stamping" previously decided issues is not intended.** The prohibition against making final policy decisions or taking formal action in other than a public meeting is not meant to permit "rubber stamping" previously decided issues. *Bagby v. Sch. Dist. No. 1*, 186 Colo. 428, 528 P.2d 1299 (1974).

**Board of education may not take a perfunctory vote in public session on issue previously decided in closed meeting**, but may base its decisions on recommendations by panel which met in closed session but at which no tentative agreement was reached nor informal poll conducted. *Bruce v. Sch. Dist. No. 60*, 687 P.2d 509 (Colo. App. 1984).

**Decision which may be made in executive session.** Decision to transfer tenured teacher from his position as principal to position as a classroom teacher was a type of specific, ad hoc action which a board of education may take in executive session. *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), aff'd, 188 Colo. 262, 535 P.2d 206 (1975).

**Teacher hiring and firing decisions are formal decisions**, and, therefore, a firing decision by a school board that is made during an executive session is invalid. *Barbour v. Hanover Sch. Dist. No. 28*, 148 P.3d 268 (Colo. App. 2006), aff'd in part and rev'd in part on other grounds, 171 P.3d 223 (Colo. 2007).

**Presence during the board's deliberative process of school superintendent and principal** who had substantial interest in the board's decision regarding dismissal violated teacher's due process right to a fair and impartial determination by the board. *DeKoevend v. Bd. of Educ.*, 688 P.2d 219 (Colo. 1984).

**School board's attorney should not be present during the board's deliberations**, in order to avoid any appearance of impropriety or unfairness. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Sessions proscribed by this section and § 29-9-101.** Where a county school board's negotiations with a local education association were handled by a committee of nonboard member representatives as well as a board member, closed sessions were held during which the board's negotiating team met with the association team, and the board also met in executive sessions with its negotiating team to review the progress of negotiations and to determine policy as well as strategy, these latter sessions of the board fall within the proscription of § 29-9-101 and this section. *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976); *Sch. Dist. No. 11 v. Colo. Springs*

Teachers Ass'n, 41 Colo. App. 267, 583 P.2d 952 (1978).

**When failure to comply with statutory notice requirements not fatal.** The failure to comply with statutory notice requirements in subsection (2) is not a fatal defect in the

proceedings when the meeting is attended by all of the members composing the board. *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), *aff'd*, 188 Colo. 262, 535 P.2d 206 (1975).

**22-32-109. Board of education - specific duties.** (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(a) To adopt written bylaws, not inconsistent with law, for its organization and operation;

(b) To adopt policies and prescribe rules and regulations necessary and proper for the efficient administration of the affairs of the district, including procedures for competitive bidding in the purchase of goods and services, except professional services, for the district;

(c) To cause a true and correct copy of all current bylaws, policies, and rules and regulations adopted or prescribed by the board to be made available for public inspection at the administrative office of the district during reasonable business hours;

(d) To cause to be filed with the department of education the name, address, and length of term of office of each school director; and the name, address, identification of office, and date of election or appointment of the president, vice-president, secretary, and treasurer, and of the assistant secretary and assistant treasurer if there are such offices;

(e) To cause minutes of all proceedings of the board, except those of an executive session, to be recorded in convenient form, which record shall be open for public inspection at the administrative office of the district during reasonable business hours;

(f) (I) To employ all personnel required to maintain the operations and carry out the educational program of the district and to fix and order paid their compensation. Prior to the employment of any person, the board shall make an inquiry to the department of education in accordance with the provisions of section 22-32-109.7 (1). A board of a district of innovation, as defined in section 22-32.5-103 (2), may delegate the duty specified in this paragraph (f) to an innovation school, as defined in section 22-32.5-103 (3), or to a school in an innovation school zone, as defined in section 22-32.5-103 (4).

(II) and (III) Repealed.

(g) To require any employee or other person who may receive into his custody moneys which properly belong to the district to deliver such moneys to the treasurer of the district, or to deposit such moneys in a depository designated by the board;

(h) To require each employee who is likely to have in his temporary custody at any one time an amount of school district moneys in excess of fifty dollars to be bonded in an amount at least sufficient to cover the amount of school district moneys which is likely to be in his temporary custody at any time, or to be bonded in such greater amount as the board may determine. A blanket form of surety bond may be utilized to cover more than one such employee. The district shall pay the costs for any such bonds.

(i) To cause to be kept complete and accurate financial records of the school district by funds and accounts, maintained on the basis of generally recognized principles of governmental accounting;

(j) To cause to be kept the stubs of, or a register of, all warrants or orders drawn upon school district moneys in the various funds, showing the number of each warrant or order, the date issued, the object or purpose for which drawn, the amount and to whom payable, or, in lieu thereof, similar records as normally provided in accounting procedures through the use of automatic processing;

(k) To cause a statement of the financial condition of the district to be published and posted as required by law, to cause all accounts to be audited as required by law, and to review from time to time during each fiscal year the financial position of the district;

(l) To cause all statements of account and all cancelled warrants and orders to be kept on file for six years;

(m) To cause such records as relate to the affairs or business of the district to be preserved and disposed of only in the manner provided by law;



(n) (I) To determine, prior to the end of a school year, the length of time which the schools of the district shall be in session during the next following school year, but in no event shall said schools be scheduled to have fewer than one thousand eighty hours of planned teacher-pupil instruction and teacher-pupil contact during the school year for secondary school pupils in high school, middle school, or junior high school or less than nine hundred ninety hours of such instruction and contact for elementary school pupils or fewer than four hundred fifty hours of such instruction for a half-day kindergarten program or fewer than nine hundred hours of such instruction for a full-day kindergarten program. In no case shall a school be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education. In extraordinary circumstances, if it appears to the satisfaction of the commissioner that compliance with the provisions of this subparagraph (I) would require the scheduling of hours of instruction and contact at a time when pupil attendance will be low and the benefits to pupils of holding such hours of instruction will be minimal in relation to the cost thereof, the commissioner may waive the provisions of this subparagraph (I) upon application therefor by the board of education of the district.

(II) (A) The actual hours of teacher-pupil instruction and teacher-pupil contact specified in subparagraph (I) of this paragraph (n) may be reduced to no fewer than one thousand fifty-six hours for secondary school pupils, no fewer than nine hundred sixty-eight hours for elementary school pupils, no fewer than four hundred thirty-five hours for half-day kindergarten pupils, or no fewer than eight hundred seventy hours for full-day kindergarten pupils, for parent-teacher conferences, staff in-service programs, and closing deemed by the board to be necessary for the health, safety, or welfare of students.

(B) Prior to the beginning of the school year, each district shall provide for the adoption of a district calendar which is applicable to all schools within the district or shall provide for the adoption of a school calendar for each individual school within the district. The district calendar or individual school calendars may be adopted by the board of education, the district administration, the school administration, or any combination thereof. A copy of the calendar shall be provided to the parents or guardians of all children enrolled in schools within the district. Such calendar shall include the dates for all staff in-service programs scheduled for the school year. The board, district administration, or school administration shall allow for public input from parents and teachers prior to scheduling the dates for staff in-service programs. Any change in the calendar, excluding changes resulting from emergency closings or other unforeseen circumstances, shall be preceded by adequate and timely notice from the board, district administration, or school administration of not less than thirty days.

(c) When so directed by the state board of education, but no more often than once during any twelve-month period, to cause a census of all persons resident within the district who have not attained the age of twenty-one years, or any age group thereof, to be taken on a prescribed date, upon such forms as shall be supplied by the state board;

(p) To appoint an attendance officer as required by the "School Attendance Law of 1963", article 33 of this title;

(q) To cause to be prepared, executed, and filed with the state board of education any report required by law or by regulation;

(r) To comply with the rules and regulations adopted by the state board of education pursuant to article 4 of title 24, C.R.S.;

(s) To cause to be erected and maintained a suitable flagstaff with the attachments necessary for the display of flags upon the administration building or, if none, on the principal school building or the grounds thereof and to cause suitable flags of standard bunting, not less than three by five feet in size, of the United States and the state of Colorado to be displayed upon said flagstaff at all times during the day while school is in session, except during inclement weather;

(t) To determine the educational programs to be carried on in the schools of the district and to prescribe the textbooks for any course of instruction or study in such programs;

(u) To provide free textbooks for an indigent child enrolled in a school of the district without requiring a loss or damage deposit, and to insure that no child is denied the use of textbooks because of refusal of his parents to pay for the same;

(v) To cause an educational program to be maintained and operated within or, if the board makes a specific determination that such is necessary for the efficient operation of the district, outside the territorial limits of the district for the school-age children resident therein; but nothing in this paragraph (v) shall be construed in a manner to prohibit the maintenance of ungraded levels of instruction therein;

(w) and (x) Repealed.

(y) (I) To adopt written bylaws relating to conflicts of interest for members of a board of education of a school district.

(II) Upon filing a copy of the adopted written bylaws with the department of education and upon acknowledgment of receipt thereof by the department, a board shall be considered to be exempt from the requirements of section 18-8-308 (1) and (2), C.R.S. A board member not voting because of a disclosed conflict shall be exempt from the provisions of section 22-32-108 (6).

(III) The commissioner of education shall, in writing, notify the secretary of state of the exemption.

(z) To provide for a periodic in-service program for all district teachers which shall provide information about the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S., instruction designed to assist teachers in recognizing child abuse or neglect, and instruction designed to provide teachers with information on how to report suspected incidents of child abuse or neglect and how to assist the child-victim and his family;

(aa) To adopt content standards and a plan for implementation of such content standards pursuant to the provisions of section 22-7-407;

(bb) (I) To adopt a policy mandating a prohibition against the use of all tobacco products on school property and at school-sponsored activities by students, teachers, staff, and visitors pursuant to the provisions of section 25-14-103.5, C.R.S., and to adopt such rules as are necessary to enforce such prohibition; except that no such policy shall require the expulsion of any student solely for such tobacco use;

(II) To the extent funds are available, to operate and maintain an educational program to assist students, faculty, and staff to avoid and discontinue the use of tobacco at each school under the board's direction and control;

(cc) To adopt a dress code policy for teachers and other school employees;

(dd) To adopt and revise, as necessary, policies to remove barriers to access and success in school for homeless children;

(ee) To adopt a policy to prohibit school personnel from recommending or requiring the use of a psychotropic drug for any student. School personnel shall not test or require a test for a child's behavior without prior written permission from the parents or guardians or the child and prior written disclosure as to the disposition of the results or the testing therefrom. Through such policy, school personnel should be encouraged to discuss concerns about a child's behavior with the parent or legal guardian of such child and such discussions may include a suggestion by school personnel that the parent or legal guardian speak with an appropriate health care professional.

(ff) To adopt a policy on or before October 1, 2005, to:

(I) Provide on or before December 31 of each school year, the names and mailing addresses of students enrolled in the eighth grade to the Colorado commission on higher education for use in mailing the notice of postsecondary educational opportunities and higher education admission guidelines as required in section 23-1-119.1, C.R.S.; and

(II) Provide to the parent of a student enrolled in the eighth grade, prior to the student's enrollment in his or her ninth-grade courses, a list of courses the school district has available that satisfy the Colorado commission on higher education's higher education admission guidelines;

(gg) To include a provision in any contract entered into by the school district with a college preparation program operating within the school district that the college preparation program shall provide to the Colorado commission on higher education, on or before December 31 of each school year, a report specifying each student, by unique identifying number, to the extent permissible by federal law, who was enrolled in the program during the previous school year; who completed the program during the previous school year; and who enrolled in an institution of higher education within six months after completing the



program. The provisions of this paragraph (gg) shall apply to contracts entered into or renewed on or after August 10, 2005.

(hh) To provide the opportunity for a student enrolled in a public school of the district to develop a plan for academic remediation upon the request of the student's parent or legal guardian;

(ii) To adopt a policy within ninety days after April 28, 2006, to ensure that the right of school district employees and students to display reasonably the flag of the United States shall not be infringed with respect to the display:

(I) On an individual's person; or

(II) On an individual's personal property or property that is under the temporary control of an employee or a student, including but not limited to a desk top or a locker;

(jj) To identify any areas in which one or more of the principals of the schools of the school district require further training or development. The board of education shall contract for or otherwise assist the identified principals in participating in professional development programs to assist the identified principals in improving their skills in the identified areas.

(kk) (I) To undertake a community-based process to develop a blueprint for the education system in the community and to determine the skills students will need to be successful after graduation. Each board of education shall seek input from the community at large, which may include, but need not be limited to, students, parents, business persons, neighboring school districts, and regional boards of cooperative services. Each board of education shall use this blueprint, together with the guidelines for high school graduation requirements developed by the state board pursuant to section 22-2-106 (1) (a.5), to establish local high school graduation requirements applicable to students enrolling in ninth grade beginning in the 2014-15 school year. To assist the state board of education in fulfilling its duties under part 10 of article 7 of this title, each board of education shall provide to the state board of education information concerning the blueprint and the input received in developing the blueprint. A board of education that has undertaken a comprehensive community-based process and has revised its high school graduation requirements within the previous two years shall not be required to develop a new blueprint for the education system in its community or make any revisions to its high school graduation requirements.

(II) Each board of education shall report its blueprint for the education system in the community and its new or revised high school graduation requirements to the public through the accreditation process, as determined by the state board. In its report, the board of education shall demonstrate how its high school graduation requirements meet or exceed any minimum standards or core competencies or skills identified in the guidelines for high school graduation requirements developed by the state board pursuant to section 22-2-106 (1) (a.5).

(ll) To adopt written policies specifying that:

(I) The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services;

(II) Enrollment in a school in the district shall be open to any child who resides within the state; except that a school shall not be required to make alterations in the structure of the facility used by the school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law; and

(III) Enrollment decisions shall be made in a nondiscriminatory manner;

(mm) To adopt and implement policies as described in section 22-11-307 for accreditation of the public schools of the school district;

(nn) To ensure that each student who enrolls in the sixth grade in a public school of the school district, including but not limited to a district charter school, on the day of enrollment is registered with the state-provided, free on-line college planning and preparation resource, commonly referred to as "CollegeInColorado.org". The school district, the department of education, and the department of higher education shall collaborate to monitor the implementation of this paragraph (nn) and to ensure optimal interactivity between the various data bases and student record systems employed by school districts and college in Colorado. At a minimum, each public school shall ensure that, in developing and maintaining each

student's individual career and academic plan, the counselor or teacher explains to the student's parent or legal guardian, by electronic mail or other written form, and to the student the requirements for and benefits of concurrently enrolling in courses with an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of this title. Based on a request from the student or the student's parent or legal guardian, the counselor or teacher shall assist the student in course planning to enable the student to concurrently enroll in courses with an institution of higher education.

(oo) (I) To adopt policies to require each school of the school district, including the charter schools, to assist each student and his or her parent or legal guardian to develop and maintain the student's individual career and academic plan, referred to in this paragraph (oo) as an "ICAP", no later than the beginning of ninth grade. The board of education may require the schools of the school district to assist the student and his or her parent or legal guardian to develop and maintain the student's ICAP in any grade prior to ninth grade. Each student's ICAP shall comply with the requirements specified in section 22-2-136 and the rules promulgated by the state board of education pursuant to said section.

(II) The board of education shall further require each school of the school district to assist each student who is enrolled in the school and has an ICAP to use the plan effectively to direct the student's course selections and performance expectations in at least grades nine through twelve; to assist the student in meeting his or her academic and career goals as described in the ICAP; and to enable the student to demonstrate postsecondary and workforce readiness prior to or upon graduation from high school at a level that allows the student to progress toward his or her postsecondary education goals, if any, without requiring remedial educational services or courses.

(2) Any board conducting a complete educational program outside the territorial limits of the district in accordance with the provisions of paragraph (v) of subsection (1) of this section shall obtain the written consent of the board of the school district in which said educational program is to be conducted prior to establishing said educational program. No board shall conduct a complete educational program outside the territorial limits of the district unless the geographic and topographical characteristics of the district make the conducting of such educational program within the territorial limits of the district unduly burdensome on the district and the students.

**Source:** **L. 64:** p. 577, § 9. **C.R.S. 1963:** § 123-30-9. **L. 73:** pp. 1254, 1274, 1314, §§ 6, 1, 7. **L. 74:** (1)(n) amended, p. 363, § 2, effective March 19. **L. 75:** (1)(w) amended, p. 702, § 2, effective July 1. **L. 77:** (1)(w) amended, p. 1049, § 1, effective May 16; (1)(n) amended, p. 1071, § 2, effective May 24. **L. 79:** (1)(v) amended and (2) added, p. 782, § 1, effective June 7; (1)(x) added, p. 784, § 1, effective July 1. **L. 80:** (1)(n) amended, p. 553, § 7, effective April 30. **L. 84:** (1)(n) amended, p. 604, § 2, effective April 2; (1)(y) added, p. 594, § 1, effective July 1; (1)(z) added, p. 595, § 1, effective January 1, 1985. **L. 86:** (1)(n) amended, p. 801, § 2, effective July 1. **L. 87:** (1)(z) amended, p. 819, § 28, effective October 1. **L. 88:** (1)(n) R&RE, p. 811, § 9, effective May 24. **L. 90:** (1)(f) and IP(1)(x)(I) amended, p. 1029, § 18, effective July 1. **L. 93:** (1)(aa) added, p. 1048, § 5, effective June 3; (1)(n)(II) amended, p. 1336, § 1, effective June 6; (1)(w) amended, p. 451, § 2, effective July 1. **L. 94:** (1)(bb) added, p. 676, § 3, effective April 19. **L. 97:** (1)(aa) amended, p. 461, § 7, effective August 6. **L. 2000:** (1)(n)(II)(A) amended, p. 375, § 32, effective April 10; (1)(cc) added and (1)(w) and (1)(x) repealed, p. 1963, §§ 2, 3, effective June 2; (1)(f) amended, p. 1594, § 1, effective July 1. **L. 2001:** (1)(n)(I) and (1)(n)(II)(A) amended, p. 561, § 3, effective May 29; (1)(f)(II)(A) amended, p. 1271, § 25, effective June 5. **L. 2002:** (1)(f)(III) added, p. 189, § 1, effective April 3; (1)(dd) added, p. 206, § 6, effective July 1. **L. 2003:** (1)(f)(II) amended, p. 2178, § 1, effective June 3; (1)(ee) added, p. 2526, § 1, effective June 5. **L. 2005:** (1)(hh) added p. 520, § 2, effective May 24; (1)(ff) and (1)(gg) added, p. 444, § 1, effective August 8. **L. 2006:** (1)(ii) added, p. 701, § 51, effective April 28; (1)(jj) added, p. 1240, § 4, effective May 26. **L. 2007:** (1)(kk) added, p. 678, § 4, effective May 2. **L. 2008:** (1)(kk)(I) amended, p. 768, § 3, effective May 14; (1)(f)(I) amended, p. 1431, § 2, effective May 28; (1)(ll) added, p. 1601, § 23, effective May 29. **L. 2009:** (1)(mm) added, (SB 09-163), ch. 293, p. 1541, § 40, effective May 21; (1)(nn) added, (SB 09-256), ch. 294, p. 1557, § 16, effective May 21. **L. 2010:** (1)(kk)(I)



amended, (HB 10-1013), ch. 399, p. 1912, § 34, effective June 10. **L. 2012:**(1)(nn) amended and (1)(oo) added, (HB 12-1345), ch. 188, p. 725, § 12, effective May 19; (1)(kk)(I) amended, (HB 12-1240), ch. 258, p. 1308, § 2, effective June 4; (1)(nn) amended, (HB 12-1043), ch. 209, p. 898, § 1, effective August 8.

**Editor's note:** (1) Subsection (1)(f)(II)(B) provided for the repeal of subsection (1)(f)(II), effective July 1, 2005. (See L. 2003, p. 2178.)

(2) Subsection (1)(f)(III)(B) provided for the repeal of subsection (1)(f)(III), effective July 1, 2005. (See L. 2002, p. 189.)

(3) Amendments to subsection (1)(nn) by House Bill 12-1043 and House Bill 12-1345 were harmonized.

**Cross references:** (1) For additional duties of local boards of education concerning the release of personal information of a student to military recruiting officers, see § 24-72-204.

(2) For the legislative declaration contained in the 2001 act amending subsections (1)(n)(I) and (1)(n)(II)(A), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsection (1)(jj), see section 7 of chapter 270, Session Laws of Colorado 2006. For the legislative declaration contained in the 2007 act enacting subsection (1)(kk), see section 1 of chapter 182, Session Laws of Colorado 2007. For the legislative declaration contained in the 2008 act enacting subsection (1)(II), see section 1 of chapter 341, Session Laws of Colorado 2008. For the legislative declaration in the 2012 act amending subsection (1)(nn) and adding subsection (1)(oo), see section 11 of chapter 188, Session Laws of Colorado 2012.

## ANNOTATION

**Law reviews.** For comment, "Cary v. Board of Education: Academic Freedom at the High School Level", see 57 Den. L.J. 197 (1980). For article, "Constitutional Law", which discusses Tenth Circuit decisions dealing with the constitutionality of corporal punishment in schools, see 65 Den. U. L. Rev. 527 (1988). For comment, "Fourth Amendment Protection in the School Environment: The Colorado Supreme Court's Application of the Reasonable Suspicion Standard in *State v. P.E.A.*", see 61 U. Colo. L. Rev. 153 (1990).

**Annotator's note.** Since § 22-32-109 is similar to repealed § 123-10-19, C.R.S. 1963, cases construing that provision have been included in the annotations to this section.

**Considerable discretion in board.** On an underlying constitutional basis, school boards are accorded by statute the authority to employ and to fix the salaries of their employees and are vested with "considerable discretion". Ball v. Weld County Sch. Dist. No. RE-3J, 37 Colo. App. 16, 545 P.2d 1370 (1975).

**School boards of local school districts are empowered by statute to control the employment** of all personnel required to maintain the operations and carry out the educational program of the district. Nagy v. Bd. of Educ. of Sch. Dist. No. 28J, 31 Colo. App. 45, 500 P.2d 987 (1972).

**Subject to express terms of other pertinent statutes.** The power of school boards to control the hiring and firing and transfers of their employees in their districts is limited only by the express terms of the statutes with respect to these aspects of the operations of the district. Nagy v. Bd. of Educ. of Sch. Dist. No. 28J, 31 Colo. App. 45, 500 P.2d 987 (1972).

**Power to employ teachers cannot be delegated by school board.** The power to employ teachers has been conferred by the general assembly exclusively on the school board, and therefore it cannot be delegated. Big Sandy Sch. Dist. No. 100-J v. Carroll, 164 Colo. 173, 433 P.2d 325 (1967).

A school board is empowered to hire teachers and while it may want to act on the recommendation of its superintendent, it cannot escape this statutory duty by completely shifting the responsibility to its superintendent. Big Sandy Sch. Dist. No. 100-J v. Carroll, 164 Colo. 173, 433 P.2d 325 (1967).

**A school board policy which discriminates against those who exercise the right to marry** violates the equal protection clause of the fourteenth amendment, unless there exists a compelling state interest which justifies that discrimination. Beeson v. Kiowa County Sch. Dist. RE-1, 39 Colo. App. 174, 567 P.2d 801 (1977).

**Board may delegate the authority to discharge "classified personnel"** but only if such delegation is accompanied by specific standards leaving little or nothing to the discretion of the subordinate. Jacobs v. Fremont RE-1 Sch. District, 697 P.2d 414 (Colo. App. 1984).

**Actions which are administrative in character**, such as the discharge of a bus driver, do not significantly impact on institutional policy and may be delegated by the school board to the superintendent of schools. Fremont RE-1 Sch. Dist. v. Jacobs, 737 P.2d 816 (Colo. 1987).

**Such delegations by the school board** need not be accompanied by specific standards to guide the discretion of the subordinate. Fremont RE-1 Sch. District v. Jacobs, 737 P.2d 816 (Colo. 1987).

**School district cannot enter into certain collective bargaining agreements.** A school district, a corporate body, cannot enter into a collective bargaining agreement whereby it delegates its responsibility and discretion in employing personnel. *Rockey v. Sch. Dist. No. 11*, 32 Colo. App. 203, 508 P.2d 796 (1973).

**School board properly delegated the power to transfer teachers when it adopted the collective bargaining agreement.** *Lazuk v. Denver County Sch. Dist. No. 1*, 22 P.3d 548 (Colo. App. 2000).

**Collective bargaining agreement not necessarily delegation of authority.** Fact that a school board entered into a collective bargaining agreement relating to the employment of teachers does not mean per se that it has delegated its authority or decision-making power. *Rockey v. Sch. Dist. No. 11*, 32 Colo. App. 203, 508 P.2d 796 (1973).

A school board's participation in collective bargaining is not per se an unlawful delegation of its authority. *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976).

**Collective bargaining agreements between a county school board and a local education association** which did not provide for binding arbitration of unresolved disputes and which gave board power to make final decision on all unresolved issues, without further negotiation, was not invalid as an unlawful delegation of authority. *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976).

**This section would appear to give board of education right to select textbooks**, including those used in elective courses, insofar as the state may do so consistent with the federal and state constitutions. *Cary v. Bd. of Educ.*, 598 F.2d 535 (10th Cir. 1979).

**Board cannot structure its text designation to promote particular religious viewpoint.** *Cary v. Bd. of Educ.*, 598 F.2d 535 (10th Cir. 1979).

**Censorship is tolerable only where legitimate state interest.** Censorship or suppression of expression of opinion, even in the classroom, should be tolerated only when there is a legitimate interest of the state which can be said to require priority. *Cary v. Bd. of Educ.*, 598 F.2d 535 (10th Cir. 1979).

**Board's decision may be political.** When the board of education for the Adams-Arapahoe school district banned 10 books from use in teachers' language arts classes, the board was acting within its rights in omitting the books and the constitutional rights of the teachers were not violated, even though the decision was a political one influenced by the personal views of the members. *Cary v. Bd. of Educ.*, 598 F.2d 535 (10th Cir. 1979).

**No intent to furnish books free to all students.** It was not the intent of the framers of the state constitution that school districts furnish books free to all students. *Marshall v. Sch. Dist. Re-3*, 191 Colo. 451, 553 P.2d 784 (1976).

If school districts were required to furnish free books to all pupils, there would be no need for the provision in this section relative to indigent children. *Marshall v. Sch. Dist. Re-3*, 191 Colo. 451, 553 P.2d 784 (1976).

**Even though generally there is no duty to protect students off the school premises**, whether a school may, through its actions and policies, undertake such a duty (in this case rules and regulations restricting travel to school by bicycle) is a factual question to be determined by the judge or jury. *Jefferson County Sch. Dist. R-1 v. Justis*, 725 P.2d 767 (Colo. 1986).

**School district did not assume duty to provide crossing guards at an intersection** in the morning when kindergartners were walking home even though crossing guards were placed at the intersection in the afternoon. *Jefferson County Sch. Dist. R-1 v. Gilbert*, 725 P.2d 774 (Colo. 1986).

**Applied in** *Mountain States Legal Found. v. Denver Sch. Dist. No. 1*, 459 F. Supp. 357 (D. Colo. 1978); *Gutierrez v. Sch. Dist. R-1*, 41 Colo. App. 411, 585 P.2d 935 (1978).

**22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements. (1) Definitions.** As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

- (I) In-school suspension;
- (II) Out-of-school suspension;
- (III) Classroom removal in accordance with board policy;
- (IV) Expulsion;
- (V) Referral to a law enforcement agency; or
- (VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b) "Bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any



reason, including but not limited to any such behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1) (II) (I). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(c) "Dangerous weapon" has the same meaning as set forth in section 22-33-102 (4).

(d) "Full-time teacher" means a person who is licensed pursuant to article 60.5 of this title, or is authorized pursuant to section 22-60.5-111 to teach, and is primarily engaged in teaching during a majority of the instructional minutes per school day.

(e) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1) (c.5).

(f) (I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and a law enforcement agency, which communication:

(A) Is initiated by the school administrator, teacher, or other school employee; and

(B) Concerns behavior by a student that the school administrator, teacher, or other school employee believes may constitute a violation of the school conduct and discipline code or a criminal or delinquent offense and for which the school administrator, teacher, or other school employee requests an investigation or other involvement by a law enforcement agency.

(II) "Referral to law enforcement" does not include:

(A) Contact with a law enforcement agency that is made for the purpose of education, prevention, or intervention regarding a student's behavior; or

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and a law enforcement officer.

(g) "Restorative justice" has the same meaning as set forth in section 22-32-144 (3).

(h) "School vehicle" shall have the same meaning as set forth in section 42-1-102 (88.5), C.R.S.

(1.5) **Mission statement.** Each school district board of education shall adopt a mission statement for the school district, which statement shall include making safety for all students and staff a priority in each public school of the school district.

(2) **Safe school plan.** In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, each school district board of education shall adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims advocacy organizations, school psychologists, and local law enforcement agencies. The plan, at a minimum, shall include the following:

(a) **Conduct and discipline code.** (I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(A) General policies on student conduct, safety, and welfare;

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's

class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(I) A written policy concerning searches on school grounds, including searches of student lockers;

(J) A dress code policy that prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum standards of dress;

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); character building; and the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, school psychologists, counselors, teachers, administrators, parents, and students. Each school district's policy shall set forth appropriate disciplinary consequences for students who bully, other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice



system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); and

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of title IX of the United States Code and other state and federal laws.

(b) **Safe school reporting requirements.** A policy whereby the principal of each public school in a school district shall submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of such school district concerning the learning environment in the school during that school year. The board of education of the school district annually shall compile the reports from every school in the district and shall submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report shall be made available to the general public. Such report shall include, but need not be limited to, the following specific information for the preceding school year:

(I) The total enrollment for the school;

(II) The average daily attendance rate at the school;

(III) Dropout rates for grades seven through twelve, if such grades are taught at the school;

(IV) The number of conduct and discipline code violations, each of which violations shall be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(A) Possessing a dangerous weapon on school grounds, in a school vehicle, or at a school activity or sanctioned event without the authorization of the school or the school district;

(B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C) Use, possession, or sale of a drug or controlled substance on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(E) Being willfully disobedient or openly and persistently defiant or repeatedly interfering with the school's ability to provide educational opportunities to, and a safe environment for, other students;

(F) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered first degree assault, as described in section 18-3-202, C.R.S., second degree assault, as described in section 18-3-203, C.R.S., or vehicular assault, as described in section 18-3-205, C.R.S.;

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to incidents of bullying and other behavior that creates a threat of physical harm to the student or to other students;

(H) Willful destruction or defacement of school property;

(I) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered third degree assault, as described in section 18-3-204, C.R.S., or disorderly conduct, as described in section 18-9-106 (1) (d), C.R.S., but not disorderly conduct involving firearms or other deadly weapons, as described in section 18-9-106 (1) (e) and (1) (f), C.R.S.;

(J) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered robbery; and

(K) Other violations of the code of conduct and discipline that resulted in documentation of the conduct in a student's record;

(V) and (VI) (Deleted by amendment, L. 2012.)

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school; and

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs.

(c) **Internet safety plan.** (I) Each school district is encouraged to provide a comprehensive, age-appropriate curriculum that teaches safety in working and interacting on the internet in grades kindergarten through twelve. At a minimum, the curriculum may address the following topics:

(A) Interaction with persons in the cybercommunity;

(B) Personal safety in interacting with persons on the internet;

(C) Recognition and avoidance of on-line bullying;

(D) Technology, computer virus issues, and ways to avoid computer virus infection;

(E) Predator identification;

(F) Intellectual property, including education concerning plagiarism and techniques to avoid committing plagiarism and laws concerning downloading of copyrighted materials including music;

(G) Privacy and the internet;

(H) On-line literacy, including instruction in how to identify credible, factual, trustworthy web sites; and

(I) Homeland security issues related to internet use.

(II) Each school district is encouraged to structure the internet safety plan so as to incorporate the internet safety topics into the teaching of the regular classroom curricula, rather than isolating the topics as a separate class. Each school district is encouraged to use available internet safety curricula resources, including but not limited to materials available through nonprofit internet safety foundations that are endorsed by the federal government. Each school district is also encouraged to work with the local law enforcement agencies for the jurisdiction in which the school district is located in developing the internet safety curricula, especially with regard to topics that address personal safety on the internet, internet predator identification, privacy issues, and homeland security issues. Each school district is also encouraged to collaborate with parents and teachers in developing the internet safety curricula, including collaborating with district and statewide organizations that represent parents and teachers.

(III) Each school district is encouraged to begin implementing the internet safety plan with the 2005-06 school year and to annually review and, as necessary, revise the plan. Each school district is encouraged to identify a person who is responsible for overseeing implementation of the internet safety plan within each public school of the school district to ensure that each public school complies with the requirements of the plan.

(IV) If a school district chooses to adopt an internet safety plan and to identify a person who is responsible for overseeing implementation of the plan, the person is encouraged to annually submit an internet safety plan implementation report to the school district board of education specifying the level of implementation achieved by each public school of the school district and providing an overview of the internet safety curricula adopted and implemented in each public school of the school district. The school district board of education of each school district that chooses to adopt an internet safety plan is encouraged to submit to the department of education an annual report summarizing the internet safety plan implementation report and is encouraged to make the annual summary report available on the school district web site.

(3) **Agreements with state agencies.** Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement officials, the juvenile justice system, and social services, as allowed under state and federal law, to keep each



school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(a) Such school teacher or school employee shall file a complaint with the school administration and the board of education.

(b) The school administration shall, after receipt of such report and proof deemed adequate to the school administration, suspend the student for three days; such suspension to be in accordance with the procedures established therefor, and shall initiate procedures for the further suspension or expulsion of the student where injury or property damage has occurred.

(c) The school administration shall report the incident to the district attorney or the appropriate local law enforcement agency or officer, who shall, upon receiving such report, investigate the incident to determine the appropriateness of filing criminal charges or initiating delinquency proceedings.

(4) **School response framework - school safety, readiness, and incident management plan.** Each board of education shall establish a school response framework that shall consist of policies described in this subsection (4). By satisfying the requirements of this subsection (4), a school or school district shall be in compliance with the national incident management system, referred to in this subsection (4) as "NIMS", developed by the federal emergency management agency. At a minimum, the policies shall require:

(a) (I) Each school district, on or before July 1, 2009, to establish a date by which each school of the school district shall be in compliance with the requirements of this subsection (4); except that the date may be changed by the school board for cause.

(II) Each school district shall make the dates established pursuant to subparagraph (I) of this paragraph (a) available to the public upon request.

(b) Each school district to adopt the national response framework released by the federal department of homeland security and NIMS formally through orders or resolutions;

(c) Each school district to institutionalize the incident command system as taught by the emergency management institute of the federal emergency management agency;

(d) Each school district, on or before July 1, 2009, to start to develop a school safety, readiness, and incident management plan, including, to the extent possible, emergency communications, that coordinates with any statewide or local emergency operation plans. In developing the plan, a school district may collaborate with local fire departments, state and local law enforcement agencies, local 911 agencies, interoperable communications providers, the safe2tell program described in section 16-15.8-103, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, and local or regional homeland security personnel, which entities are collectively referred to in this subsection (4) as "community partners". The school safety, readiness, and incident management plan shall, at a minimum, identify for each public school in the school district:

(I) Safety teams and backups who are responsible for interacting with community partners and assuming key incident command positions; and

(II) Potential locations for various types of operational locations and support functions or facilities;

(e) To the extent possible, each school district to enter into memoranda of understanding with the community partners specifying responsibilities for responding to incidents;

(f) To the extent possible, each public school to create an all-hazard exercise program based on NIMS and to conduct tabletop exercises and other exercises in collaboration with community partners from multiple disciplines and, if possible, multiple jurisdictions to practice and assess preparedness and communications interoperability with community partners;

(g) To the extent possible, each public school, in collaboration with its school district, to hold coordinated exercises among school employees and community partners, including at a minimum:

(I) Orientation meetings to inform all parties about emergency operation plans and procedures;

(II) All-hazard drills, in addition to fire drills, to improve individual and student emergency procedures and to test communications interoperability; and

(III) Tabletop exercises to discuss and identify roles and responsibilities in different scenarios;

(h) Each public school to conduct a written evaluation following the exercises and certain incidents as identified by the school or school district and identify and address lessons learned and corrective actions in updating response plans and procedures;

(i) Each public school, at least every academic term, to inventory emergency equipment and test communications equipment and its interoperability with affected state and local agencies;

(j) Each school district to adopt written procedures for taking action and communicating with local law enforcement agencies, community emergency services, parents, students, and the media in the event of certain incidents as identified by the school or school district;

(k) Key emergency school personnel, including but not limited to safety teams and backups, to complete courses provided by the federal emergency management agency's emergency management institute or by institutions of higher education in the state system of community and technical colleges;

(l) School district employee safety and incident management training, including provisions stating that completion of any courses identified by the department of public safety pursuant to section 24-33.5-1606.5 (3), C.R.S., as related to NIMS count toward the professional development requirements of a person licensed pursuant to article 60.5 of this title;

(m) Each school district to work with community partners to update and revise all standard operating procedures, ensuring that all aspects of NIMS are incorporated, including but not limited to policies and principles, planning, procedures, training, response, exercises, equipment, evaluation, and corrective actions;

(n) Each school district to coordinate with community partners to assess overall alignment and compliance with NIMS; identify requirements already met; establish a baseline for NIMS compliance; and determine action steps, including developing a plan and timeline, to achieve and maintain all NIMS goals; and

(o) Each school district to develop a timeline and strategy for compliance with the requirements of this subsection (4) and to strategically plan, schedule, and conduct all activities with community partners.

(5) **Safety and security policy.** Each board of education shall adopt a policy requiring annual school building inspections to address the removal of hazards and vandalism and any other barriers to safety and supervision.

(6) **Sharing information.** Notwithstanding any provision to the contrary in title 24, C.R.S., each board of education shall establish policies consistent with section 24-72-204 (3), C.R.S., and with applicable provisions of the federal "Family Education Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto, to share and release information directly related to a student and maintained by a public school or by a person acting for the public school in the interest of making schools safer. Sharing of information concerning an out-of-home placement student who is being transferred to a public school shall comply with the rules established by the state board pursuant to section 22-2-139 (9).

(7) **Open school policy.** Each board of education shall adopt an open school policy to allow parents and members of the school district board of education reasonable access to observe classes, activities, and functions at a public school upon reasonable notice to the school administrator's office.

(8) **Employee screenings.** Each board of education shall adopt a policy of making inquiries upon good cause to the department of education for the purposes of screening licensed employees and nonlicensed employees hired on or after January 1, 1991. Licensed



employees employed by school districts on or after January 1, 1991, shall be screened upon good cause to check for any new instances of criminal activity listed in section 22-32-109.9 (1) (a). Nonlicensed employees employed by a school district on or after January 1, 1991, shall be screened upon good cause to check for any new instances of criminal activity listed in section 22-32-109.8 (2) (a).

(9) **Immunity.** (a) A school district board of education or a teacher or any other person acting in good faith in accordance with the provisions of subsection (2) of this section in carrying out the powers or duties authorized by said subsection shall be immune from criminal prosecution or civil liability for such actions; except that a teacher or any other person acting willfully or wantonly in violation of said subsection shall not be immune from criminal prosecution or civil liability pursuant to said subsection. A teacher or any other person claiming immunity from criminal prosecution under this paragraph (a) may file a motion that shall be heard prior to trial. At the hearing, the teacher or other person claiming immunity shall bear the burden of establishing the right to immunity by a preponderance of the evidence.

(b) A teacher or any other person acting in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall be immune from civil liability; except that a person acting willfully and wantonly shall not be immune from liability pursuant to this paragraph (b). The court shall dismiss any civil action resulting from actions taken by a teacher or any other person pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section upon a finding by the court that the person acted in good faith and in compliance with such conduct and discipline code and was therefore immune from civil liability pursuant to paragraph (a) of this subsection (9). The court shall award court costs and reasonable attorney fees to the prevailing party in such a civil action.

(c) If a teacher or any other person does not claim or is not granted immunity from criminal prosecution pursuant to paragraph (a) of this subsection (9) and a criminal action is brought against a teacher or any other person for actions taken pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section, it shall be an affirmative defense in the criminal action that the teacher or such other person was acting in good faith and in compliance with the conduct and discipline code and was not acting in a willful or wanton manner in violation of the conduct and discipline code.

(d) An act of a teacher or any other person shall not be considered child abuse pursuant to sections 18-6-401 (1) and 19-1-103 (1), C.R.S., if:

(I) The act was performed in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section; or

(II) The act was an appropriate expression of affection or emotional support, as determined by the board of education.

(e) A teacher or any other person who acts in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall not have his or her contract nonrenewed or be subject to any disciplinary proceedings, including dismissal, as a result of such lawful actions, nor shall the actions of the teacher or other person be reflected in any written evaluation or other personnel record concerning such teacher or other person. A teacher or any other person aggrieved by an alleged violation of this paragraph (e) may file a civil action in the appropriate district court within two years after the alleged violation.

(10) **Compliance with safe school reporting requirements.** If the state board determines that a school district or one or more of the public schools in a school district is in willful noncompliance with the provisions of paragraph (b) of subsection (2) of this section, the state's share of the school district's total program, as determined pursuant to article 54 of this title, may be subject to forfeiture until the school district and each school in the district attains compliance with the provisions of paragraph (b) of subsection (2) of this section.

**Source:** **L. 2000:** Entire section added, p. 1957, § 1, effective June 2. **L. 2001:** (2)(b)(VII) amended, p. 1272, § 26, effective June 5; IP(2), (2)(a)(VIII), and (2)(a)(IX) amended and (2)(a)(X) and (2)(b)(VIII) added, pp. 494, 495, §§ 2, 3, effective August 8. **L. 2002:** IP(2) and IP(9)(d) amended, p. 1020, § 30, effective June 1. **L. 2004:** (2)(b)(VII) amended, p. 1285, § 18, effective May 28. **L. 2005:** (2)(c) added, p. 261, § 2, effective April 14. **L. 2006:** (2)(b)(IV) amended, p. 405, § 2, effective April 6. **L. 2007:** (9)(a), (9)(c), and (9)(e) amended, p. 686, § 1, effective May 3. **L. 2008:** (4) amended, p. 802, § 3, effective May 14. **L. 2009:** IP(2) amended, (SB 09-163), ch. 293, p. 1541, § 41, effective May 21; (2)(a)(III) amended, (HB 09-1243), ch. 290, p. 1423, § 2, effective May 21. **L. 2010:** (2)(a)(II) and (2)(a)(X) amended, (HB 10-1232), ch. 163, p. 569, § 4, effective April 28; (6) amended, (HB 10-1274), ch. 271, p. 1250, § 5, effective May 25. **L. 2011:** (2)(a)(IX), (2)(a)(X), and (2)(b)(IV)(G) amended, (HB 11-1254), ch. 173, p. 652, § 2, effective May 13; IP(4), IP(4)(d), (4)(f), (4)(g)(II), and (4)(i) amended, (SB 11-173), ch. 310, p. 1514, § 2, effective June 10; (6) amended, (HB 11-1303), ch. 264, p. 1161, § 46, effective August 10. **L. 2012:** IP(4)(d) amended, (SB 12-079), ch. 58, p. 213, § 6, effective March 24; (1), IP(2), (2)(a), and (2)(b) amended and (1.5) added, (HB 12-1345), ch. 188, p. 732, § 22, effective May 19; (4)(l) amended, (HB 12-1283), ch. 240, p. 1132, § 40, effective July 1.

**Cross references:** (1) For the legislative declaration contained in the 2001 act amending the introductory portion to subsection (2) and subsections (2)(a)(VIII) and (2)(a)(IX) and adding subsections (2)(a)(X) and (2)(b)(VIII), see section 1 of chapter 154, Session Laws of Colorado 2001. For the legislative declaration contained in the 2005 act adding subsection (2)(c), see section 1 of chapter 72, Session Laws of Colorado 2005. For the legislative declaration contained in the 2006 act amending subsection (2)(b)(IV), see section 1 of chapter 117, Session Laws of Colorado 2006. For the legislative declaration contained in the 2008 act amending subsection (4), see section 1 of chapter 215, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsection (6), see section 1 of chapter 271, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portions to subsections (4) and (4)(d) and subsections (4)(f), (4)(g)(II), and (4)(i), see section 1 of chapter 310, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (1), the introductory portion to subsection (2), and subsections (2)(a) and (2)(b) and adding subsection (1.5), see section 21 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in the 2012 act amending subsection (4)(l), see section 1 of chapter 240, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

## ANNOTATION

**Law reviews.** For comment, "Warning Bell: The Inherent Difficulties of Responding to Student-on-Student Sexual Harassment in Colorado Middle Schools", see 76 U. Colo. L. Rev. 813 (2005).

**Subsection (9)(e) [formerly 22-32-110 (4)(c)] is to be viewed as an exception to the school board's discretion in the area of hiring and firing;** the proximity of the subsection to other provisions granting immunity does not assist an analysis. *Widder v. Durango Sch. Dist.* No. 9-R, 85 P.3d 518 (Colo. 2004).

**A school district's decision is quasi-judicial and subject to review under C.R.C.P. 106(a)(4)** where the decision is whether to terminate an employee who claims that he acted in good faith and in compliance with a conduct and

discipline code. The decision involves a determination of the rights, duties, or obligations of specific individuals on the basis of applying presently existing standards to past or present facts. *Widder v. Durango Sch. Dist.* No. 9-R, 85 P.3d 518 (Colo. 2004).

**Trial court erred in determining de novo the facts underlying a dismissal decision.** The immunity granted school district employees in subsection (9)(e) does not divest a school board of its discretion to determine whether an employee's conduct was in good faith and in compliance with the school district's disciplinary code and so whether it warrants dismissal. *Widder v. Durango Sch. Dist.* No. 9-R, 60 P.3d 741 (Colo. App. 2002), *aff'd in part and rev'd in part* on other grounds, 85 P.3d 518 (Colo. 2004).



**22-32-109.2. Board of education - specific duties - adoption of policy.** (1) In carrying out the duties specified in section 22-32-109 (1) (t), on and after July 1, 1990, each board of education shall be required to formally adopt a policy concerning the delivery of all educational programs and courses of instruction or study which expose pupils to any psychiatric or psychological methods or procedures involving the diagnosis, assessment, or treatment of any emotional, behavioral, or mental disorder or disability.

(2) Prior to taking action pursuant to subsection (1) of this section, a board of education shall provide an adequate opportunity to allow review by and receive recommendations from members of the board, the personnel of the school district, the parents of pupils enrolled in the school district, and members of the public.

(3) The department of education shall prepare model policies to provide guidance to boards of education adopting policies under subsection (1) of this section.

**Source: L. 90:** Entire section added, p. 1098, § 63, effective May 31.

**22-32-109.3. Board of education - specific duties - student records.** (1) Except as otherwise provided in subsections (2) and (3) of this section, each school district, as required under section 24-72-204 (3), C.R.S., shall maintain the confidentiality of the addresses and telephone numbers of students enrolled in public elementary and secondary schools within the school district and any medical, psychological, sociological, and scholastic achievement data collected concerning individual students.

(2) Notwithstanding the provisions of subsection (1) of this section, the address and telephone number and any medical, psychological, sociological, and scholastic achievement data concerning any student shall be released under the following conditions:

(a) As provided in section 24-72-204 (3), C.R.S.;

(b) To district or municipal court personnel, the division of youth corrections, county departments of social services, the youthful offender system, and any other juvenile justice agency within fifteen days after receipt by the school district of a court order authorizing release of such information.

(3) Notwithstanding the provisions of subsection (1) of this section, either the principal of a school, or such principal's designee, or, if the student is enrolled in a public school, the superintendent of a school district in which the student is enrolled, or such superintendent's designee, shall provide attendance and disciplinary records to a criminal justice agency pursuant to the provisions of section 19-1-303 (2), C.R.S.

**Source: L. 96:** Entire section added, p. 1683, § 9, effective January 1, 1997. **L. 2000:** (1) amended and (3) added, p. 321, § 10, effective April 7.

**22-32-109.4. "Colorado School Collective Bargaining Agreement Sunshine Act" - board of education - specific duties.** (1) This section shall be known and may be cited as the "Colorado School Collective Bargaining Agreement Sunshine Act".

(2) "Collective bargaining agreement" means, for the purpose of this section, a master agreement, and any amendments, addendums, memorandums, or any other documents modifying the master agreement.

(3) In addition to any other duty required to be performed by law, each board of education shall cause, within thirty days following August 8, 2001, a true and correct copy of each collective bargaining agreement entered into by the board of education and in effect as of said date and all subsequent collective bargaining agreements entered into by the board of education, within thirty working days following the date of ratification of each agreement, to be:

(a) Posted on the web site of the school district;

(b) Repealed.

(c) Made available for public inspection during regular business hours in a convenient and identified location at the main administrative office of the school district; and

(d) Filed with the board of trustees of the largest public library located within the school district.

**Source:** **L. 2001:** Entire section added, p. 168, § 1, effective August 8. **L. 2010:** IP(3) amended, (HB 10-1036), ch. 79, p. 269, § 2, effective April 12. **L. 2012:** (3)(a) amended and (3)(b) repealed, (HB 12-1240), ch. 258, p. 1312, § 15, effective June 4.

**22-32-109.5. Board of education - specific duties - testing requirements - basic skills placement or assessment tests - intervention plans.** (1) In carrying out its duties under section 22-32-109 (1) (t) in determining educational programs, if a board of education imposes any special proficiency test for graduation from the twelfth grade beyond the regular requirements for satisfactory completion of the courses and hours prescribed for graduation, the results of such tests shall be used by school districts to design regular or special classes to meet the needs of all children as indicated by overall test results. If a board determines to impose such a proficiency test, such test shall be given at least twice during each school year, and initial testing shall take place in the ninth grade.

(2) Any child who does not satisfactorily fulfill the requirements of a special proficiency test imposed under the provisions of subsection (1) of this section shall be provided with remedial or tutorial services during the school day in the subject area in which the test indicates deficiencies for graduation purposes. Such child shall be provided with these services from the time of the initial testing until such time as the results of the special proficiency test are satisfactory. Parents of children not satisfactorily fulfilling the requirements of a special proficiency test shall be provided with all special proficiency test scores for their child a minimum of once each semester.

(3) Repealed.

(4) (a) Each school district may administer to students enrolled in grades nine through twelve in the schools of the school district the basic skills placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113, C.R.S. The school district may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate moneys to each school district to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(b) If a school district chooses to administer the basic skills placement or assessment tests, each student's individual career and academic plan shall include the scores achieved by the student on the basic skills placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness at the time he or she takes the tests. If a student's scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services that the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If appropriate, the school, the student, and the student's parent or legal guardian may choose to enroll the student in one or more basic skills courses at an institution of higher education through the "Concurrent Enrollment Programs Act", article 35 of this title, if the student is enrolled in twelfth grade.

**Source:** **L. 75:** Entire section added, p. 698, § 1, effective July 18. **L. 93:** (3) added, p. 1048, § 6, effective June 3. **L. 2012:** (4) added, (HB 12-1345), ch. 188, p. 725, § 13, effective May 19.

**Editor's note:** Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 1995. (See L. 93, p. 1048.)

**Cross references:** For the legislative declaration in the 2012 act adding subsection (4), see section 11 of chapter 188, Session Laws of Colorado 2012.



**22-32-109.6. Board of education - specific duties - class size reduction plans - alternative student achievement plans - definitions.** (1) (a) The general assembly hereby finds and declares that:

(I) The voters approved section 17 of article IX of the state constitution with the intent that the increased funding of public education be used for specific and accountable purposes to improve the state's public schools;

(II) Elementary school teachers support reducing class size in early grades; and

(III) Parents have indicated that reducing class size, especially in early grades, is one of their top priorities for public schools.

(b) It is the general assembly's duty to ensure that the one-percent increase in statewide base per pupil funding required by section 17 of article IX of the state constitution be used in a manner intended by the voters.

(2) As used in this section, unless the context otherwise requires:

(a) "Class" means a non-elective class in kindergarten or the first, second, or third grade or any combination of kindergarten or the first, second, or third grades in a public school, which class provides instruction in one or more of the first priority state model content standards areas of reading, writing, mathematics, science, history, or geography, as described in section 22-7-406 (1) (a).

(b) and (c) Repealed.

(d) "One-percent increase" means the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution.

(e) Repealed.

(f) "Teacher" means a person who is licensed pursuant to article 60.5 of this title, or is authorized pursuant to section 22-60.5-111, to teach and is primarily engaged in teaching kindergarten or the first, second, or third grade.

(3) and (4) Repealed.

**Source:** L. 2001: Entire section added, p. 335, § 1, effective April 16. L. 2004: (2)(f) amended, p. 1286, § 19, effective May 28. L. 2007: (2)(b), (2)(c), (2)(e), (3), and (4) repealed, p. 745, § 28, effective May 9.

**22-32-109.7. Board of education - specific duties - employment of personnel.**

(1) Prior to the employment of any person by a school district, the board of education shall make an inquiry concerning such person to the department of education for the purpose of determining:

(a) Whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children;

(b) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information provided to the department by a school district pursuant to subsection (3) of this section and confirmed by the department pursuant to the provisions of section 22-2-119 (1) (b):

(c) If a holder of a license or authorization issued pursuant to the provisions of article 60.5 of this title, whether such person's license or authorization has ever been denied, annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2) (b), as it existed prior to July 1, 1999, or pursuant to article 60.5 of this title, following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(1.5) During the employment of any person by a school district, the board of education may make an inquiry concerning such person to the department of education for the purposes described in subsection (1) of this section.

(2) (a) The board of education shall also contact previous employers of such applicant for the purpose of obtaining information or recommendations which may be relevant to such person's fitness for employment.

(b) Any previous employer of an applicant for employment who provides information to a school district or who makes a recommendation concerning an applicant, whether at the request of the school district or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows such information is false or acts with reckless disregard concerning the veracity of such information; and

(II) The school district acts upon such information to the detriment of:

(A) The applicant because the school district refused to employ such person based, in whole or in part, on negative information concerning such person later determined to be false; or

(B) The school district because the school district employed the applicant based, in whole or in part, on positive information concerning such person later determined to be false.

(c) Any school district which relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and such school district knows the information is false or acts with reckless disregard concerning the veracity of such information.

(3) If an employee of a school district is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which is supported by a preponderance of the evidence, within ten business days after the dismissal or resignation, the board of education of the school district shall notify the department of education and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The district shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department of education unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S. A public school district or charter school shall not enter into a settlement agreement that would restrict the school district or charter school from sharing any relevant information related to a conviction for child abuse or a sexual offense against a child as defined by section 13-80-103.9 (1) (c), C.R.S., pertaining to the employee with the department, another school district, or charter school pertaining to the incident upon which the dismissal or resignation is based.

(3.5) Whenever a school district learns from a source other than the department of education that a current or past employee of the school district has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the school district shall notify the department of education.

(4) Any information received by a board of education pursuant to subsection (1) or (2) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsections or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source:** **L. 90:** Entire section added, p. 1029, § 19, effective July 1. **L. 93:** (1)(b) and (3) amended, p. 633, § 1, effective July 1. **L. 99:** (1)(a) amended and (1.5) and (3.5) added, p. 1100, § 1, effective July 1. **L. 2000:** (1)(c) amended, p. 1856, § 56, effective August 2. **L. 2003:** (4) amended, p. 1409, § 16, effective January 1, 2004. **L. 2006:** (1)(c) amended, p. 922, § 1, effective July 1. **L. 2008:** (3) amended, p. 2225, § 2, effective June 5.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsection (4), see section 1 of chapter 196, Session Laws of Colorado 2003.



**22-32-109.8. Applicants selected for nonlicensed positions - submittal of form and fingerprints - prohibition against employing persons - department database.** (1) Except as otherwise provided in paragraph (a) of subsection (10) of this section, any person applying to any school district for any position of employment for which a license issued pursuant to article 60.5 of this title is not required and who is selected for such position of employment by such school district shall submit a complete set of fingerprints of such applicant taken by a qualified law enforcement agency or authorized employee of such school district and a notarized, completed form as specified in subsection (2) of this section. Said fingerprints and form shall be submitted to the school district at the time requested by such school district.

(2) On a form provided by the school district, a selected applicant shall certify, under penalty of perjury, either:

(a) That he has never been convicted of committing any felony or misdemeanor; but not including any misdemeanor traffic offense or traffic infraction; or

(b) That he has been convicted of committing any felony or misdemeanor; but not including any misdemeanor traffic offense or traffic infraction. Such certification shall specify such felony or misdemeanor for which convicted, the date of such conviction, and the court entering the judgment of conviction.

(3) In addition to any other requirements established by law, the submittal of fingerprints and the form pursuant to subsection (1) of this section shall be a prerequisite to the employment of a person in a nonlicensed position in a school district, and no person shall be so employed who has not complied with the provisions of subsection (1) of this section.

(4) Any school district to which fingerprints are submitted pursuant to subsection (1) of this section shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(5) (a) A school district may employ a person in a nonlicensed position in the school district prior to receiving the results regarding the selected applicant's fingerprints; however:

(I) The school district may terminate the person's employment if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (1) of this section; and

(II) The school district shall terminate the person's employment if the results of a fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in subsection (6.5) of this section.

(b) The school district shall notify the proper district attorney of inconsistent results as described in subparagraph (I) of paragraph (a) of this subsection (5) for purposes of action or possible prosecution.

(6) (a) When a school district finds good cause to believe that a nonlicensed person employed by the school district has been convicted of a felony or misdemeanor other than a misdemeanor traffic offense or traffic infraction subsequent to his or her employment, the school district shall require the person to submit to the school district a complete set of his or her fingerprints taken by a qualified law enforcement agency. The fingerprints shall be submitted within twenty days after receipt of written notification from the school district. The school district shall forward the fingerprints of the person to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. If the results of the fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in subsection (6.5) of this section, the school district shall terminate the person's employment.

(b) School districts shall not charge nonlicensed personnel any fees for the direct and indirect costs of the school district for fingerprint processing performed pursuant to the provisions of this subsection (6).

(6.5) (a) Except as provided in paragraph (d) of this subsection (6.5), a person employed in or applying to a school district for employment in a nonlicensed position is disqualified from employment if:

(I) The applicant or employee has been convicted of, or convicted of attempt, solicitation, or conspiracy to commit, one of the following offenses:

(A) Felony child abuse, as described in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406 (2), C.R.S.;

(C) A felony involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(D) Except as provided in paragraph (b) of this subsection (6.5), a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) Except as provided in paragraph (b) of this subsection (6.5), a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed on or after August 25, 2012;

(F) Felony indecent exposure, as described in section 18-7-302, C.R.S.; or

(G) An offense in any other state, the United States, or any territory subject to the jurisdiction of the United States, which, if committed in this state, would constitute an offense described in sub-subparagraphs (A) to (F) of this subparagraph (I);

(II) The applicant or employee fails to submit fingerprints on a timely basis following receipt of the written request from the school district pursuant to subsection (1) or (6) of this section.

(b) The disqualification from employment pursuant to sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) shall only apply for a period of five years following the date the offense was committed, and, for the offense described in sub-subparagraph (D) of subparagraph (I) of paragraph (a) of this subsection (6.5), the person shall have successfully completed any domestic violence treatment required by the court prior to employment. An employee terminated from employment solely on the basis of the disqualification contained in sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) may reapply for employment after five years have passed since the date the offense was committed.

(c) Nothing in this subsection (6.5) shall require a second or subsequent fingerprint-based criminal history record check to be conducted for an employee for whom a fingerprint-based criminal history record check has been completed prior to August 10, 2011.

(d) (I) Notwithstanding the disqualification from employment set forth in this subsection (6.5), a school district may employ a person convicted of an offense listed in sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) after conducting an assessment of the current safety risk posed by the person.

(II) A person who is or would be disqualified from employment pursuant to sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) may submit a written request to the school district for reconsideration of the disqualification from employment. Reconsideration shall be based upon the school district's assessment of the current safety risk in hiring the person or in continuing the person's employment after considering:

(A) The seriousness and nature of the disqualifying offense;

(B) The time elapsed since the date the offense was committed;

(C) The nature of the position held or sought by the person; and

(D) Any other relevant information.

(III) The decision of the school district shall be final.

(7) For purposes of this section, a person is deemed to be convicted of committing a felony or misdemeanor as described in this section if the person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a guilty plea accepted by a court, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.



(a.5) “Nonlicensed” means a person does not hold, or a position of employment does not require, a license issued pursuant to article 60.5 of this title.

(b) “Position of employment” means any job or position in which any person may be engaged in the service of a school district for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(9) All costs arising from the taking of fingerprints and from any fingerprint processing performed by the Colorado bureau of investigation pursuant to the provisions of this section shall be borne by school districts. Except as otherwise provided in paragraph (b) of subsection (6) of this section, school districts may charge such selected applicants a nonrefundable fee in an amount equal to the direct and indirect costs of such school district for the administration of this section. Said fees shall be credited to the fingerprint processing account and shall be used for the purposes set forth in this section and may not be expended by the school district for any other purpose; however, said fees shall not be used for the purposes set forth in subsection (6) of this section. Any moneys in said account which are not expended during a budget year shall be carried forward and budgeted for the purposes set forth in this section in the next budget year. Such fee may be paid by the selected applicant over a period of sixty days after employment.

(10) (a) The provisions of this section shall not apply to any person who is enrolled as a student in any school district and who is applying to the same school district in which such student is enrolled for a position of employment for which a license issued pursuant to article 60.5 of this title is not required.

(b) (Deleted by amendment, L. 2002, p. 974, § 9, effective June 1, 2002.)

(11) (a) Each school district shall submit to the department of education the name, date of birth, and social security number from the human resource electronic data communications and reporting system required by section 22-44-105 (4) (a) for each nonlicensed person employed by the district.

(b) The department of education shall create and maintain a database of all the information submitted pursuant to this subsection (11).

(c) At the beginning of each semester, a school district shall notify the department of education when a nonlicensed employee is no longer employed by the school district, and the department shall purge at least annually the employees’ information from the database created pursuant to paragraph (b) of this subsection (11).

(d) On or before August 30 each year, the department of education shall submit a list of all persons employed by each school district in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee’s name and date of birth.

(12) Nothing in this section shall create for a person a property right in or entitlement to employment or continued employment with a school district or impair a school district’s right to terminate employment for a nondiscriminatory reason.

**Source:** L. 90: Entire section added, p. 1113, § 3, effective June 7. L. 92: (1), IP(2), (5), (8), and (9) amended and (10) added, p. 517, § 1, effective July 1. L. 93: (10) amended, p. 71, § 1, effective March 26. L. 2000: (1) and (10)(a) amended, p. 1856, § 57, effective August 2. L. 2002: (1), (4), (6)(a), and (10) amended, p. 974, § 9, effective June 1. L. 2004: (11) added, p. 381, § 1, effective April 8. L. 2006: (11)(d) amended, p. 607, § 24, effective August 7. L. 2011: (3), (5), (6), (7), and (8) amended and (6.5) and (12) added, (HB 11-1121), ch. 242, p. 1055, § 4, effective August 10.

**Cross references:** In 2011, subsections (3), (5), (6), (7), and (8) were amended and subsections (6.5) and (12) were added by the “Safer Schools Act of 2011”. For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-32-109.9. Licensed personnel - submittal of fingerprints.** (1) (a) When any school district finds good cause to believe that any licensed personnel employed by such school district has been convicted of any felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, such school district shall require such person to submit a complete set of his or her fingerprints taken by a qualified

law enforcement agency. Said fingerprints shall be submitted within twenty days of receipt of written notification from the school district.

(b) For purposes of this subsection (1), a person is deemed to be convicted of committing a felony or misdemeanor if such person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would be a felony or misdemeanor.

(c) For purposes of this subsection (1), "convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(2) Any school district to which fingerprints are submitted pursuant to subsection (1) of this section shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(3) All costs arising from the taking of fingerprints and from any fingerprint processing performed by the Colorado bureau of investigation pursuant to the provisions of subsection (1) of this section shall be borne by school districts. School districts shall not charge licensed personnel any fees for the direct and indirect costs of such school district for fingerprint processing performed pursuant to the provisions of subsection (1) of this section.

**Source:** L. 90: Entire section added, p. 1113, § 3, effective June 7. L. 93: (1)(a)(I) amended, p. 71, § 2, effective March 26. L. 2000: (1)(a) and (3) amended, p. 1856, § 58, effective August 2. L. 2002: (1)(a) and (2) amended, p. 975, § 10, effective June 1.

**22-32-110. Board of education - specific powers.** (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(a) To take and hold in the name of the district so much real and personal property located within or outside the territorial limits of the district as may be reasonably necessary for any purpose authorized by law;

(b) To purchase on such terms, including but not limited to installment purchase plans, as the board sees fit and necessary or to lease or rent, with or without an option to purchase, undeveloped or improved real property located within or outside the territorial limits of the district or equipment on such terms as the board sees fit for use as school sites, buildings, or structures, or for any school purpose authorized by law; to determine the location of each school site, building, or structure; and to construct, erect, repair, alter, and remodel buildings and structures;

(c) To provide furniture, equipment, library books, and everything needed to carry out the education program;

(d) To construct, purchase, or remodel teacherages for the employees, or any classification thereof, of the district;

(e) To sell and convey district property which may not be needed within the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve; and to lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same. No finding that the property may not be needed within the foreseeable future shall be necessary if the property is sold and conveyed to a state agency or political subdivision of this state or if the board anticipates that the district will become the tenant of the property under a lease, with or without an option to purchase.

(f) To rent or lease district property not needed for its purposes for terms not exceeding ten years, or in the case of unimproved real property leased to a lessee that is a charter school as defined in section 22-30.5-403 (3), for a term not exceeding thirty years, or in the case of a charter school using debt financing, for a term not exceeding the term of the debt financing, subject to all land use and building and zoning plans, codes, resolutions, and regulations, and to permit the use of district property by community organizations upon



such terms and conditions as it may approve. No finding that the property is not needed for the district's purposes shall be necessary if the board anticipates that the district will become the subtenant of the property under a sublease, and under such circumstances the term of the lease may exceed ten years but may not exceed fifty years.

(g) To employ a chief executive officer to administer the affairs and the programs of the district, pursuant to a contract;

(h) To discharge or otherwise terminate the employment of any personnel. A board of a district of innovation, as defined in section 22-32.5-103 (2), may delegate the power specified in this paragraph (h) to an innovation school, as defined in section 22-32.5-103 (3), or to a school in an innovation school zone, as defined in section 22-32.5-103 (4).

(i) To reimburse employees of the district for expenses incurred in the performance of their duties either within or without the territorial limits of the district;

(j) To procure group life, health, or accident insurance covering employees of the district pursuant to section 10-7-203, C.R.S.;

(k) To adopt written policies, rules, and regulations, not inconsistent with law, that may relate to the efficiency, in-service training, professional growth, safety, official conduct, and welfare of the employees, or any classification thereof, of the district. The practices of employment, promotion, and dismissal shall be unaffected by the employee's religion, creed, color, sex, sexual orientation, marital status, racial or ethnic background, national origin, ancestry, or participation in community affairs.

(l) To determine which schools of the district shall be operated and maintained;

(m) To fix the attendance boundaries of each school in the district;

(n) To provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties; to maintain membership in established school board organizations; and to reimburse a board member for necessary expenses incurred by him in the performance of his official duties, whether within or without the territorial limits of the district;

(o) To provide textbooks to all school-age pupils enrolled in the public schools. The use of such textbooks may be provided free of charge or for a reasonable rental fee for the use of some or all of the textbooks. The rental fee shall be based solely on the purchase price and normal life expectancy of each book rented.

(p) To require pupils enrolled in the public schools of the district to possess suitable supplies;

(q) To procure supplies and equipment required to carry on the musical, dramatic, athletic, and equivalent programs of the district;

(r) To exclude from each school and school library any books, magazines, papers, or other publications which, in the judgment of the board, are of immoral or pernicious nature;

(s) To procure such insurance coverage on the building, structures, and equipment owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(t) To procure such casualty insurance coverage on the personal property owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(u) To procure public liability insurance covering the school district and the directors and employees thereof;

(v) To procure liability and property damage insurance on school vehicles, as defined in section 42-1-102 (88.5), C.R.S., and to procure accident insurance covering the medical expenses incurred by any pupil who is injured while being furnished transportation by the school district pursuant to section 22-32-113, including injury received in the course of entering or alighting from any school vehicle or other means of transportation furnished by the school district;

(w) To contract for the transportation of pupils enrolled in the public schools of the district and to require any such contractor operating a bus or motor vehicle for such purpose to procure liability and property damage insurance on such bus or motor vehicle and pay all premiums for such insurance, without the right of contribution from the school district to the insurer;

(x) To elect to have moneys belonging to the school district withdrawn from the custody of the county treasurer and paid over to the treasurer of the board in the manner provided by law;

(y) To accept gifts, donations, or grants of any kind made to the district and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; but no gift, donation, or grant shall be accepted by the board if subject to any condition contrary to law;

(z) To cause a census to be taken of all persons resident within the district who have not attained the age of twenty-one years, or any age group thereof, whenever determined by the board, notwithstanding any census theretofore or thereafter required to be taken by the state board of education;

(aa) To authorize the use of facsimile signatures on teacher contracts, bonds, and bond coupons by appropriate resolution;

(bb) Repealed.

(cc) To provide, in the discretion of the local board, out of federal grants made available specifically for this purpose, special educational services and arrangements, such as dual enrollment, educational radio and television, and mobile educational services, for the benefit of educationally deprived children in the district who attend nonpublic schools, without the requirement of full-time public school attendance and without discrimination on the ground of race, color, religion, sex, or national origin;

(dd) To provide, in the discretion of the local board, out of federal grants made available specifically for this purpose, library resources which, for the purposes of this title, means books, periodicals, documents, magnetic tapes, films, phonograph records, and other related library materials and printed and published instructional materials for the use and benefit of all children in the district and the use of teachers to benefit all children in the district, both in the public and nonpublic schools, without charge and without discrimination on the ground of race, color, religion, sex, or national origin;

(ee) To employ on a voluntary or paid basis teachers' aides and other auxiliary, nonlicensed personnel to assist licensed personnel in the provision of services related to instruction or supervision of children and to provide compensation for such services rendered from any funds available for such purpose, notwithstanding the provisions of sections 22-63-201 and 22-63-402;

(ff) and (gg) Repealed.

(hh) To enter into installment purchase contracts or shared-savings contracts or otherwise incur indebtedness under section 29-12.5-103, C.R.S., to finance energy conservation and energy saving measures and enter into contracts for an analysis and recommendations pertaining to such measures under section 29-12.5-102, C.R.S.;

(ii) To enter into contracts and to receive federal matching funds for moneys spent in providing student health services pursuant to section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(jj) To require the replacement of damaged textbooks or library resources or the return of loaned textbooks or library resources by withholding the diploma, transcript, or grades of any student who fails to return or replace any such textbooks or library resources at the completion of any semester or school year. The school district shall make a reasonable effort to obtain payment for lost or damaged textbooks or library resources. If the school district determines that a student is unable to pay, the school district may obtain payment through other methods, including but not limited to payment plans or service within the school in which the student is enrolled. The school district may also refuse to allow any student who completes graduation or continuation requirements to participate in any graduation or continuation ceremony if the student has failed to return or replace any such textbooks or library resources prior to the date of the graduation or continuation ceremony.

(kk) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of title 24, C.R.S.;

(ll) (I) Repealed.

(II) (Deleted by amendment, L. 2005, p. 433, § 5, effective April 29, 2005.)

(mm) To adopt a resolution, as provided in section 13-1-127 (7), C.R.S., authorizing one or more employees of the school district to represent the school district in judicial



proceedings brought to enforce the “School Attendance Law of 1963”, article 33 of this title.

(2) to (4) Repealed.

(5) No board of education shall enter into an agreement with any group, association, or organization representing employees of the district which commits revenues raised or received pursuant to article 54 of this title for a period of time in excess of one year unless such agreement includes a provision which allows for the reopening of the portion of the agreement relating to salaries and benefits.

**Source:** **L. 64:** p. 579, § 10. **C.R.S. 1963:** § 123-30-10. **L. 65:** p. 1023, § 1. **L. 69:** p. 1032, § 1. **L. 71:** p. 1163, § 1. **L. 73:** pp. 1274, 1275, 1279, §§ 2, 1, 1. **L. 77:** (1)(b) amended, p. 1050, § 1, effective June 10; (1)(cc) and (1)(dd) amended, p. 1053, effective July 1. **L. 79:** (1)(a) and (1)(b) amended, p. 782, § 2, effective June 7. **L. 83:** (1)(b), (1)(e), and (1)(f) amended, p. 749, §§ 1, 2, effective July 1; (1)(f) amended, p. 754, § 1, effective July 1. **L. 84:** (1)(bb) amended, p. 582, § 2, effective March 19; (2) to (4) added, p. 597, § 1, effective April 5. **L. 89:** (5) added, p. 965, § 12, effective June 7. **L. 90:** (1)(ff) and (1)(gg) added, p. 1456, § 3, effective April 24; (1)(ee) amended, p. 1130, § 5, effective July 1; (2) and (4) amended, p. 1031, § 20, effective July 1. **L. 91:** (4)(a) amended and (4)(c) added, p. 529, § 1, effective April 20; (1)(hh) added, p. 732, § 2, effective May 1. **L. 93:** (2) and (3) amended and (3.5) added, p. 449, § 1, effective July 1. **L. 94:** (1)(ff), (1)(gg), and (5) amended, pp. 808, 813, §§ 14, 26, effective April 27; (1)(ee) amended, p. 1633, § 39, effective May 31; (1)(ff) and (1)(gg) amended, p. 2831, § 1, effective January 1, 1995. **L. 95:** (1)(o) amended, p. 346, § 2, effective January 1, 1996. **L. 97:** (1)(ii) added, p. 1139, § 7, effective May 28; (3.5)(b) repealed, p. 461, § 8, effective August 6. **L. 98:** (2)(b)(V) amended, p. 572, § 6, effective April 30; (2)(b)(IV) amended, p. 823, § 32, effective August 5. **L. 99:** (1)(jj) added, p. 291, § 1, effective April 14; (1)(kk) added, p. 1347, § 5, effective July 1. **L. 2000:** (3.5)(a) amended, p. 369, § 21, effective April 10; (2), (3), (3.5), and (4) repealed, p. 1963, § 4, effective June 2; (1)(ee) and IP(4)(b) amended, p. 1857, § 59, effective August 2. **L. 2001:** (1)(ll) added, p. 560, § 2, effective May 29. **L. 2002:** (1)(kk) amended, p. 858, § 6, effective May 30; (1)(ff) and (1)(gg) amended, p. 1118, § 1, effective June 3; (1)(f) amended, p. 1767, § 35, effective June 7. **L. 2003:** (1)(jj) amended, p. 1634, § 1, effective May 2; (1)(ff)(III) and (1)(gg)(III) added, p. 2137, §§ 35, 36, effective May 22. **L. 2005:** (1)(ll) amended, p. 433, § 5, effective April 29. **L. 2006:** (1)(ll)(I) repealed, p. 696, § 40, effective April 28; (1)(ii) amended, p. 2006, § 64, effective July 1. **L. 2007:** (1)(mm) added, p. 165, § 3, effective March 22; (1)(ff)(I) and (1)(gg)(I) amended, p. 348, § 3, effective August 3. **L. 2008:** (1)(h) amended, p. 1431, § 3, effective May 28; (1)(k) amended, p. 1601, § 24, effective May 29. **L. 2010:** (1)(v) amended, (HB 10-1232), ch. 163, p. 570, § 5, effective April 28; (1)(ff) and (1)(gg) repealed, (HB 10-1013), ch. 399, p. 1896, § 3, effective June 10; (1)(bb) repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11.

**Editor’s note:** Subsection (3.5)(a) was amended by Senate Bill 00-186 with a conforming amendment that will not take effect because of the repeal of the provision by Senate Bill 00-133.

**Cross references:** For the legislative declaration contained in the 1995 act amending subsection (1)(o), see section 1 of chapter 113, Session Laws of Colorado 1995. For the legislative declaration contained in the 2001 act enacting subsection (1)(ll), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2008 act amending subsection (1)(k), see section 1 of chapter 341, Session Laws of Colorado 2008.

## ANNOTATION

- I. General Consideration.
- II. Maintenance of Schools.
- III. Expenditures.
- IV. Employment of Personnel.
- V. Textbooks.

## I. GENERAL CONSIDERATION.

**Law reviews.** For note, “Power of School Boards to Discontinue Schools”, see 5 Rocky Mt. L. Rev. 210 (1933). For comment, “Cary v.

Board of Education: Academic Freedom at the High School Level", see 57 Den. L.J. 197 (1980).

**Annotator's note.** Since § 22-32-110 is similar to repealed § 123-10-21, CRS 53, as amended, § 123-10-21, CRS 53, and CSA, C. 146, § 89, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

**This section is only declaratory of the constitutional powers of the board of education,** to which the general assembly could not add, nor from which it could not subtract. *People ex rel. Vallimar v. Stanley*, 81 Colo. 276, 255 P. 610 (1927).

**The court-made doctrine of governmental immunity of school districts is overruled.** As to all other causes of action the ruling shall be prospective and shall be effective only as to causes of action arising after June 30, 1972. *Flournoy v. Sch. Dist. No. 1*, 174 Colo. 110, 482 P.2d 966 (1971).

**Board members held not liable when acting within discretion and in good faith.** Where members of board of education turned over bonds to a bond company that failed to make payment, they are not liable since the duty, whether a trust duty, or otherwise, is still a public, governmental, duty to be performed within the discretion of the board, in good faith, as an agency of the state, and when so acting it did so in a purely political or sovereign capacity. *Lemon v. Girardot*, 100 Colo. 45, 65 P.2d 1427 (1937).

**The title to district property is in the district,** and its board of education holds the property and administers it for the benefit of the district. *Gorrell v. Bevans*, 66 Colo. 67, 179 P. 337 (1919).

**No authority to condemn extraterritorial property.** Although the authority to condemn extraterritorial property may be implied in an express grant of power, no such implication arises where the general assembly has specifically prohibited a school district from condemning extraterritorial property. *Clear Creek Sch. Dist. RE-1 v. Holmes*, 628 P.2d 154 (Colo. App. 1981).

**For previous power of board of education to admit transfer students from other districts,** see *Sch. Dist. No. 16 v. Union High Sch. No. 1*, 60 Colo. 292, 152 P. 1149 (1915); *Duncan v. People ex rel. Moser*, 89 Colo. 149, 299 P. 1060 (1931); *Simonson v. Sch. Dist. No. 14*, 127 Colo. 575, 258 P.2d 1128 (1953).

**Administrative hearing officer did not err in declining to make findings as to petitioner's asserted defense under this section** in teacher disciplinary proceeding where there were no allegations that teacher was acting to discipline any of the students involved in the proceeding. *Knowles v. Bd. of Educ.*, 857 P.2d 553 (Colo. App. 1993).

**Subsection (5) does not encompass contract provisions concerning negotiations upon mutual consent** because all contracts may be reopened upon mutual consent. *Denver Classroom Teachers Ass'n v. Sch. Dist. No. 1*, 911 P.2d 690 (Colo. App. 1995).

In order to further the legislative intent behind subsection (5), contractual provisions allowing for annual negotiations must do more than simply provide for the reopening of negotiations during some agreed upon period each year. Rather, the negotiation provision must have the flexibility to allow for adjustments in the agreement based on "changes in the funds available to, or needs of, the district." These "changes" are those produced by the budget adoption process at the state and local level, which process is, generally, outside of the control of either party to these kinds of collective bargaining agreements. *DAEOP v. Sch. Dist. No. 1*, 972 P.2d 1047 (Colo. App. 1998).

A restriction on the requirements necessary to satisfy subsection (5) is inconsistent with the legislative intent of the statutory scheme regarding school financing, to wit: to ensure that the state and the individual school districts maintain fiscal integrity and that they, in effect, not write a check in one year that they cannot cash in a subsequent year. Consequently, contractual negotiation provisions which do not provide the flexibility envisioned by the general assembly, with respect to compensation and benefits, fail to promote the object of the law and, therefore, do not satisfy subsection (5). *DAEOP v. Sch. Dist. No. 1*, 972 P.2d 1047 (Colo. App. 1998).

A provision requiring school district to initiate negotiations regarding salaries and benefits before being apprised of any changes in its available funds cannot comply with the requirements of subsection (5). However, language specifying that the agreement will be subject to negotiation as to compensation and benefits if changes are the result of a "legal budget adoption process" is consistent with the school finance act. *DAEOP v. Sch. Dist. No. 1*, 972 P.2d 1047 (Colo. App. 1998).

**Based upon relevant statutes respecting school district budgeting and matters of salaries, wages, and benefits, any provision of a multi-year collective bargaining agreement is void as against public policy and, therefore, unenforceable,** if it limits any party to such agreement from requesting in good faith to reopen negotiations concerning issues of compensation and benefits within a reasonable period after that party becomes aware of the need therefor as a consequence of the legal budget adoption process at either the state or local level. However, the limitations set forth in such provisions remain enforceable as to issues subject to negotiation other than compensation and benefits. *DAEOP v. Sch. Dist. No. 1*, 972 P.2d 1047 (Colo. App. 1998).



Here, school district's initiation of negotiations regarding salaries was permissible pursuant to the language of the collective bargaining agreement read in pari materia with relevant statutes. In refusing the school district's reasonable request to reopen negotiations, DAEOP waived its right to negotiate, and must abide by school district's determination of salaries for the 1993-94 school year. *DAEOP v. Sch. Dist. No. 1, 972 P.2d 1047 (Colo. App. 1998).*

**Subsection (5) does not create an illusory class of one and does have a rational basis** under the state constitution, article V, section 25. *Denver Classroom Teachers Ass'n v. Sch. Dist. No. 1, 911 P.2d 690 (Colo. App. 1995).*

**Applied** in *Mountain States Legal Found. v. Denver Sch. Dist. No. 1, 459 F. Supp. 357 (D. Colo. 1978); Blair v. Lovett, 196 Colo. 118, 582 P.2d 668 (1978); Williams v. East Otero Sch. Dist. R-1, 749 P.2d 472 (Colo. App. 1987).*

## II. MAINTENANCE OF SCHOOLS.

**The board of education of a school district is clothed with the "power" and is charged with the "duty" to determine just which schools shall be maintained** and operated within the district. *Hawkins v. Cline, 161 Colo. 141, 420 P.2d 400 (1966).*

**Approval of residents of a district is unnecessary.** Before closing a school the board need not obtain or even seek to obtain the approval of the residents of the "old" school district, notwithstanding any reference thereto in the plan of organization. *Hawkins v. Cline, 161 Colo. 141, 420 P.2d 400 (1966).*

## III. EXPENDITURES.

**No power to make expenditures relating to proposed constitutional amendment.** This section does not empower a board of education of a school board to make expenditures in support of the opposition to a proposed constitutional amendment. *Campbell v. Joint Dist. 28-J, 704 F.2d 501 (10th Cir. 1983).*

**School district may charge to broadcast its athletic events.** There is no reason why a school district, even though supported by public tax funds, should not charge reasonable fees to broadcast any or all of its athletic events. *Colo. High Sch. Activities Ass'n v. Uncompahgre Broad. Co., 134 Colo. 131, 300 P.2d 968 (1956).*

**Broadcasting fee must be used for educational purpose.** It makes no difference how a fee charged by a school district to broadcast athletic events is computed nor is it of any concern how a district may dispose of such a fee once collected so long as the money is spent for a legitimate public educational purpose. *Colo. High Sch. Activities Ass'n v. Uncompahgre Broad. Co., 134 Colo. 131, 300 P.2d 968 (1956).*

**Plaintiffs held to lack standing to enjoin school district from honoring contracts and charging fees to broadcast athletic events.** *Colo. High Sch. Activities Ass'n v. Uncompahgre Broad. Co., 134 Colo. 131, 300 P.2d 968 (1956).*

**Declaratory judgments or actions in the nature of quo warranto are the approved methods of challenging the expenditure of public school funds.** *Colo. High Sch. Activities Ass'n v. Uncompahgre Broad. Co., 134 Colo. 131, 300 P.2d 968 (1956).*

## IV. EMPLOYMENT OF PERSONNEL.

**Subsection (1)(h) does not constitute a grant of absolute authority to boards of education.** The authority granted is subject to, and must be exercised in accordance with, the more specific statutes respecting teacher terminations, including the later-adopted amendments to § 22-63-302. *Heimer v. Bd. of Educ., Adams County, 895 P.2d 152 (Colo. App. 1994), rev'd on other grounds, 919 P.2d 786 (Colo. 1996).*

**School boards are not required to adopt employment termination procedures,** but, if they choose to do so, the promulgation of such procedures constitutes an authorized exercise of the powers granted to school boards. *Adams Cty. Sch. Dist. No. 50 v. Dickey, 791 P.2d 688 (Colo. 1990).*

**Employee handbook.** Where a school has withdrawn an employee handbook, the ability of employees discharged in violation of the handbook while the handbook was in force is not affected. *Adams Cty. Sch. Dist. No. 50 v. Dickey, 791 P.2d 688 (Colo. 1990).*

**Board could be found to have delegated its authority** by relying "heavily" on administrators' personnel recommendations and by failing adequately to investigate teacher's allegation that principal's negative recommendation was based on principal's motive to retaliate against teacher for constitutionally protected conduct. *Watson v. Eagle County Sch. District RE-50, 797 P.2d 768 (Colo. App. 1990).*

**School boards cannot delegate power to make decisions relative to employment, retention, or dismissal of teachers.** *Willis v. Widefield Sch. Dist. No. 3, 43 Colo. App. 197, 603 P.2d 962 (1979).*

**Consideration of administrative evaluation not unlawful delegation.** Merely because a school board considers evaluations made by administrative personnel as one factor in determining whether to renew the contracts of nontenured teachers, this is not an unlawful delegation of power pertinent to employment, as the ultimate decision remains with the board. *Willis v. Widefield Sch. Dist. No. 3, 43 Colo. App. 197, 603 P.2d 962 (1979).*

**A school board's participation in collective bargaining is not per se an unlawful delega-**

**tion of its authority.** Littleton Educ. Ass'n v. Arapahoe County Sch. Dist., 191 Colo. 411, 553 P.2d 793 (1976).

**Board did not improperly delegate authority by entering collective bargaining agreement.** Language of a collective bargaining agreement between a school district and a teachers' association which provides that the district give prior consideration to currently employed teachers within the district applying for openings within the district was, in effect, a statement of policy to be followed by the board when filling vacancies or staffing new schools, and since the board was not bound or obligated by the terms of the agreement, it did not surrender or delegate its authority or decision-making power to the teachers' association. *Rockey v. Sch. Dist. No. 11*, 32 Colo. App. 203, 508 P.2d 796 (1973).

Collective bargaining agreements between a county school board and a local education association which did not provide for binding arbitration of unresolved disputes and which gave board power to make final decision on all unresolved issues, without further negotiation, was not invalid as an unlawful delegation of authority. *Littleton Educ. Ass'n v. Arapahoe County Sch. Dist.*, 191 Colo. 411, 553 P.2d 793 (1976).

**Subsection (4)(c) creates an exception to the general rule stated in § 22-63-203 granting school boards discretion in not renewing probationary teachers' contracts.** While a school board has great discretion in choosing whether to renew a probationary teacher's contract, subsection (4)(c) prohibits the school board from basing its renewal decision on any actions taken by the probationary teacher in good faith and in compliance with the school district's discipline code. *McIntosh v. Bd. of*

*Educ. of Sch. Dist. No. 1*, 999 P.2d 224 (Colo. App. 2000).

**Trial court erred in determining de novo the facts underlying a dismissal decision.** The immunity granted school district employees in subsection (4)(c) does not divest a school board of its discretion to determine whether an employee's conduct was in good faith and in compliance with the school district's disciplinary code and so whether it warrants dismissal. *Widder v. Durango Sch. Dist. No. 9-R*, 60 P.3d 741 (Colo. App. 2002) (decided under law in effect prior to the 2000 repeal and relocation to § 22-32-109.1), *aff'd in part and rev'd in part on other grounds*, 85 P.3d 518 (Colo. 2004).

**Plaintiff not entitled to mandamus relief.** Absent circumstances indicating that an employee was not provided an opportunity for an evidentiary hearing regarding termination, the more appropriate procedure is to seek review of the board's decision to terminate pursuant to C.R.C.P. 106 (a)(4). *Widder v. Durango Sch. Dist. No. 9-R*, 60 P.3d 741 (Colo. App. 2002) (decided under law in effect prior to the 2000 repeal and relocation to § 22-32-109.1), *aff'd*, 85 P.3d 518 (Colo. 2004).

## V. TEXTBOOKS.

**No intent to furnish books free to all students.** It was not the intent of the framers of the state constitution that school districts furnish books free to all students. *Marshall v. Sch. Dist. Re-3*, 191 Colo. 451, 553 P.2d 784 (1976).

There would be no need for the discretionary authority of the board of education to provide free use of textbooks if the constitution contained a mandate for school districts to furnish books free to all students. *Marshall v. Sch. Dist. Re-3*, 191 Colo. 451, 553 P.2d 784 (1976).

### 22-32-110.3. Board of education - specific powers - teacher in residence program. (Repealed)

**Source:** **L. 99:** Entire section added, p. 1192, § 9, effective June 1. **L. 2000:** (4)(d) amended, p. 1114, § 2, effective May 26. **L. 2002:** (4)(b) and (6)(a) amended and (4)(f) and (7) added, pp. 1622, 1623, §§ 1, 2, effective June 7. **L. 2003:** (4)(a) amended, p. 2516, § 6, effective June 5. **L. 2004:** (4)(a), (4)(b)(I), (4)(d), and (4)(f) amended, p. 1282, § 8, effective May 28. **L. 2005:** (4)(c) amended, p. 189, § 30, effective April 7. **L. 2009:** Entire section repealed, (SB 09-160), ch. 292, p. 1447, § 1, effective May 21.

**Cross references:** For current provisions relating to teacher in residence programs, see alternative teacher programs as contained in § 22-60.5-205.

### 22-32-110.4. Board of education - specific powers - alternative principal preparation program. (Repealed)

**Source:** **L. 2004:** Entire section added, p. 1287, § 23, effective May 28. **L. 2005:** (3)(a) and (5) amended, p. 189, § 31, effective April 7. **L. 2009:** Entire section repealed, (SB 09-160), ch. 292, p. 1447, § 1, effective May 21.

**Editor's note:** This section was relocated to § 22-60.5-305.5 in 2009.



**22-32-110.5. Charter schools - effectiveness of charter. (Repealed)**

**Source:** **L. 96:** Entire section added, p. 755, § 10, effective May 22. **L. 98:** Entire section repealed, p. 164, § 2, effective April 6.

**22-32-110.6. Board of education - specific powers - “No Child Left Behind Act of 2001”.** (1) Effective July 1, 2005, a school district board of education may adopt a resolution stating its intent to decline one or more of the federal funding sources of the “Elementary and Secondary Education Act of 1965”, as reauthorized and amended in the “No Child Left Behind Act of 2001”, 20 U.S.C. sec. 6301 et seq., and thereby be exempt from the requirements of said federal act that accompany the declined funding sources and are identified by said federal act as available for exemption. The resolution shall remain in place until rescinded by the school district board of education.

(2) If a school district chooses to adopt a resolution to decline federal funding sources as provided in this section, the school district’s action in declining federal funds and thereby being exempt from specified federal requirements shall not affect the school district’s accreditation category, and the department of education and the state board of education shall not impose any form of sanction on the school district for its action in declining federal funds and in not complying with the federal requirements from which it is exempt.

**Source:** **L. 2005:** Entire section added, p. 487, § 1, effective May 7. **L. 2009:** (2) amended, (SB 09-163), ch. 293, p. 1542, § 42, effective May 21.

**22-32-110.7. Board of education - specific powers - drug testing.** (1) The general assembly recognizes that the safety issues which face schools have changed in the recent past. The general assembly finds the safety of school children should be a priority of the state. The general assembly further finds the use of illegal drugs by employees of school districts who hold safety-sensitive positions could endanger the lives and safety of school children. The general assembly therefore authorizes school districts to create school safety programs, which may include drug testing of all personnel who apply for, transfer to, or are promoted to safety-sensitive positions. The program may also include drug testing of personnel in safety-sensitive positions if there is probable cause to believe the person is using illegal drugs.

(2) For each collective bargaining agreement entered into on or after April 16, 2001, with a union representing personnel in safety-sensitive positions, the collective bargaining agreement shall include drug testing policies for personnel who occupy safety-sensitive positions.

(3) Implementation of this section shall be within existing appropriations.

(4) For the purposes of this section, “safety-sensitive positions” means positions in which a single mistake can create imminent threat of serious harm to students or teachers.

**Source:** **L. 2001:** Entire section added, p. 363, § 33, effective April 16.

**22-32-111. Power of eminent domain.** A school district has the power to take by eminent domain so much real property as the board of education of the district may deem necessary for any school purpose authorized by law, but the power of eminent domain shall not be exercised to acquire any real property located outside the territorial limits of the school district. The procedure for the exercise of eminent domain as authorized by this section shall be as prescribed by article 1 of title 38, C.R.S., but without regard to the municipal corporation and purposes specified in said article.

**Source:** **L. 64:** p. 583, § 12. **C.R.S. 1963:** § 123-30-12.

## ANNOTATION

**Annotator's note.** Since § 22-32-111 is similar to repealed CSA, C. 146, § 74, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

**Condemnation of extraterritorial property prohibited.** Although the authority to condemn extraterritorial property may be implied in an express grant of power, no such implication arises where the general assembly has specifically prohibited a school district from condemning extraterritorial property. *Clear Creek Sch. Dist. RE-1 v. Holmes*, 628 P.2d 154 (Colo. App. 1981).

**Prohibition held constitutional.** A school district may not invoke the constitutional provi-

sion concerning the power of eminent domain, § 14 of art. II, Colo. Const., to preclude the application of this section. *Clear Creek Sch. Dist. RE-1 v. Holmes*, 628 P.2d 154 (Colo. App. 1981).

**Denial of right to open and close eminent domain proceedings held proper in circumstances.** *Kirkwood v. Sch. Dist. No. 7*, 45 Colo. 368, 101 P. 343 (1909).

**For previous restriction on amount of land which could be acquired by eminent domain,** see *Warner v. Gunnison*, 2 Colo. App. 430, 31 P. 238 (1892); *Kirkwood v. Sch. Dist. No. 7*, 45 Colo. 368, 101 P. 343 (1909); *Schaefer v. Sch. Dist. No. 18*, 111 Colo. 340, 141 P.2d 903 (1943).

**22-32-112. Oil and gas leases.** (1) A board of education of a school district has the power to lease any real property or any interest therein owned by the district for oil and gas exploration, development, and production purposes, upon such terms and conditions as may be prescribed and contracted by the board in the exercise of its best judgment as the board deems to be for the best interests of the district. Any lease of oil and gas rights shall be for a term not to exceed ten years and as long thereafter as oil or gas is produced, and shall provide for a royalty of not less than twelve and one-half percent of all oil and gas produced, saved, and sold, or the gross production value thereof, which royalty may be reduced proportionately under appropriate provision in the lease if the interest in the school district is less than a full interest in the land or oil and gas rights in the land described in the lease. Whenever in the opinion of the board of education, and because of the size, shape, or current use of any tract of land owned by the district, the best interests of the district so require, any lease of such tract may provide that no drilling shall be conducted on the land covered thereby, in which case such lease shall be for a term not to exceed ten years and so long thereafter as the district may share in royalties payable on account of production of oil or gas from lands adjacent to such tract so leased.

(2) Whenever deemed by the board of education of a school district to be in the best interests of the district, it may enter into a unit agreement providing for the pooling, unitization, or consolidation of acreage covered by any oil and gas lease executed by the district with other acreage for oil and gas exploration, development, and production purposes, and providing for the apportionment or allocation of royalties among the separate tracts of land included in the unit or pooling agreement on an acreage or other equitable basis, and may change, by such agreement, with the consent of the lessee under the lease, any or all of the provisions of any lease issued by the district, including the term of years for which the lease was originally granted, in order to conform such lease to the terms and provisions of the unit or pooling agreement and to facilitate the efficient and economic production of oil and gas from the lands subject to such agreement.

(3) The leasing of school district real property or any interest therein under the provisions of this section shall not be deemed to be a sale of such school property.

(4) All leases of oil and gas or rights therein and all unit agreements relating to or dealing with oil and gas and containing provisions similar to those set forth in this section affecting school district lands heretofore made or entered into by any school district are hereby confirmed, validated, and declared to be legal and valid in all respects.

**Source:** L. 64: p. 583, § 13. C.R.S. 1963: § 123-30-13.

**22-32-113. Transportation of pupils - when.** (1) The board of education of a school district may furnish transportation:

(a) To and from public schools of the district for any reasonable classification of resident pupils enrolled in the schools of the district;



(b) To and from public schools located in an adjacent state for any reasonable classification of resident pupils who have not completed the twelfth grade, but only if the district of attendance is one to which the district of residence of such pupils is authorized to pay tuition for the attendance of such pupils;

(c) To and from public schools for any reasonable classification of pupils enrolled in the schools of the district who are resident of any other school district, if the district of residence is adjacent to the district of attendance, and if the board or other governing body of the district of residence shall consent to such transportation;

(d) To and from any school-sponsored activity, or for any emergency, for any reasonable classification of resident pupils enrolled in the schools of the district, whether said activity or emergency be within or without the territorial limits of the district, and whether or not occurring during school hours.

(1.5) The general assembly recognizes that section 2 of article IX of the state constitution requires the establishment and maintenance of a thorough and uniform system of free public schools and requires school districts to maintain such public schools. The general assembly finds and declares, however, that the provision by school districts of transportation for pupils is not required by the constitution as a part of a thorough and uniform system of free public schools and that any school district which provides transportation may pay the costs incurred in doing so through any means authorized by the general assembly pursuant to this title.

(2) A board may determine the points at which pupils shall be received and delivered and the routes of transportation pursuant to subsection (1) of this section.

(3) If it is impractical, as determined by the board, to furnish transportation to and from school for any resident pupil enrolled or eligible to be enrolled in the schools of the district pursuant to subsection (1) (a), (1) (b), or (1) (c) of this section, the board may pay the cost, or any portion thereof, of room and board for the pupil to reside at a point near a school of the district of residence, or a school of a district to which the district of residence is authorized to pay tuition.

(4) A board may reimburse a parent or guardian for the expenses incurred by such parent or guardian in furnishing transportation to and from a public school or designated school vehicle stop for his or her child or children and for other pupils enrolled in the schools of the district; but the board may not reimburse any person for transportation furnished to a pupil resident in another school district without the consent of the board or other governing body of the district of residence. The amount and payment of such expenses shall be as determined by the board paying such expenses.

(5) (a) The board of education of a school district that furnishes transportation to pupils pursuant to the provisions of this section may impose and collect a fee for the payment of excess transportation costs pursuant to a fee schedule adopted by a resolution of the board of education of the district.

(a.5) Prior to adopting a resolution to collect a transportation fee pursuant to the provisions of this subsection (5), a school district board of education shall hold a public meeting to solicit and consider recommendations from, at a minimum, the school district accountability committee, or its equivalent within the school district, and from teachers, parents, and students, including but not limited to any statewide or local organization that represents parents, teachers, and students within the school district. The recommendations shall pertain both to the question of whether to impose the transportation fee and to the proposed fee schedule. The school district board of education shall provide public notice of the meeting at least thirty days prior to the meeting. At a meeting held subsequent to the meeting at which the school district board of education receives comments and recommendations, the district board may adopt a resolution to impose a transportation fee pursuant to this subsection (5). The school district board of education shall specifically take into account the recommendations received from the school district accountability committee, or its equivalent, and teachers, parents, and students when making the final determination of whether to impose a transportation fee pursuant to this subsection (5).

(a.6) In imposing a transportation fee on pupils pursuant to this subsection (5), the school district shall ensure that only those pupils who use the transportation services are required to pay the fee.

(a.7) A school district shall deposit any revenues received from the imposition of a fee pursuant to the provisions of this subsection (5) in the transportation fund of the district created in section 22-45-103 (1) (f).

(a.9) If a school district that imposes a transportation fee pursuant to this subsection (5) chooses to impose the transportation fee on students enrolled in charter schools of the school district, the school district, prior to imposing the transportation fee, shall consult with the parents of the students enrolled in the charter schools of the school district. If the school district chooses to include charter school students in the transportation fee, the school district shall ensure that the full amount of the transportation fee collected from students enrolled in charter schools is used to offset the costs of providing transportation services for charter school students.

(b) For the purposes of this subsection (5), "excess transportation costs" means the current operating expenditures for pupil transportation, as defined in section 22-51-102 (1), minus any reimbursement entitlement, as defined in section 22-51-102 (4). The calculation of excess transportation costs shall be based upon amounts expended and amounts received for the twelve-month period ending on June 30 prior to the adoption of the fee schedule.

(c) If a school district imposes a fee for the transportation of pupils, the district shall waive the fee for any pupil who is eligible for a reduced-cost meal or free meal pursuant to the "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

**Source:** L. 64: p. 584, § 14. C.R.S. 1963: § 123-30-14. L. 69: p. 1033, § 1. L. 91: (1.5) and (5) added, pp. 538, 537, §§ 3, 2, effective May 1. L. 93: (5)(a) amended, p. 1782, § 50, effective June 6. L. 2005: (5) amended, p. 1506, § 1, effective June 9. L. 2010: (4) amended, (HB 10-1232), ch. 163, p. 570, § 6, effective April 28.

**Cross references:** For reimbursement of transportation costs, see article 51 of this title.

**22-32-114. Transportation by parents of own children.** Notwithstanding the provisions of section 42-4-1904, C.R.S., the board of a school district shall not require a parent or guardian to comply with said statutes and school bus regulations when such parent or guardian shall transport only his or her own child or children, even though the board may reimburse such parent or guardian for expenses incurred in furnishing such transportation.

**Source:** L. 64: p. 585, § 15. C.R.S. 1963: § 123-30-15. L. 94: Entire section amended, p. 2554, § 46, effective January 1, 1995.

**Cross references:** For reimbursement entitlement to school districts from the public school transportation fund, see § 22-51-104.

**22-32-115. Tuition for resident school-age children.** (1) A board of education of a school district may pay tuition for any school-age child resident in the district who has not completed the twelfth grade to attend a school operated by another school district, whether said school is located within or without the county, when the board of the district of residence determines for any reason whatsoever that it would be to the educational advantage or general welfare or convenience of said child to attend such school operated by another school district.

(2) (a) The tuition, to be paid as authorized by subsection (1) of this section, shall not exceed one hundred twenty percent of the current per pupil general fund cost in the school district of attendance during the preceding school year.

(b) (I) A board of education of a district shall permit any child, the parents or guardian of whom are residents of the state but are not residents of the district, to attend school in the district pursuant to the provisions of section 22-36-101, and the parents or guardian of such child shall not be required to pay tuition. If the child permitted to attend school in the district pursuant to the provisions of section 22-36-101 is a child with a disability, the school district of residence shall be responsible for paying any tuition for educating the child in accordance with the provisions of section 22-20-109 (4). Nothing in this paragraph (b) shall



be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such child to and from the school of attendance. The board of education of any school district may permit any child, the parents or guardian of whom are not residents of the state, to attend school in the school district and may require the parents or guardian of the child to pay tuition on behalf of the child.

(II) A board of education of a school district shall permit an elementary school-age child to attend an elementary school operated by such school district if the provisions of section 22-32-116 (2) are applicable.

(3) The authority of a board of education to pay tuition for a child pursuant to subsection (1) of this section shall include authority to pay tuition for a child to attend a public school of a school district situate in an adjacent state when the district of residence of the child is situate adjacent to the other state and the geographic conditions or distances are such that it would be impracticable for the child to attend the schools of his district. In the case of tuition paid to a school district of an adjacent state, the limitations of subsection (2) (a) of this section shall not be applicable.

(4) (a) A district of residence shall not be liable for the tuition of any school-age child except pursuant to a written agreement with the district of attendance. A copy of any written agreement between the district of residence and the district of attendance shall be furnished to the parent or guardian of a child covered by the agreement, and such parent or guardian shall not be liable for such part of the tuition, if any, not paid to the district of attendance by the district of residence of such child; except that such parent or guardian may be liable for the payment of such part of the tuition if such parent or guardian is not a resident of the state.

(b) The written agreement between the school district of residence and the school district of attendance regarding a nonresident child who is attending an elementary school in a school district other than the school district of residence pursuant to the provisions of section 22-32-116 (2) may not contain any requirement for the payment of tuition. The school district of residence and the parent or guardian of a child attending school pursuant to section 22-32-116 (2) are not liable for any tuition for the attendance of the child in the school district of attendance.

(5) (Deleted by amendment, L. 94, p. 558, § 3, effective April 6, 1994.)

**Source:** L. 64: p. 585, § 16. C.R.S. 1963: § 123-30-16. L. 75: (2)(a) amended, p. 710, § 1, effective July 1. L. 88: (2)(a) amended, p. 811, § 10, effective May 24. L. 93: (5) amended, p. 1648, § 41, effective July 1. L. 94: (2)(b), (4), and (5) amended, p. 558, § 3, effective April 6; (2)(a) amended, p. 813, § 27, effective April 27; (2)(b) and (4) amended, p. 1061, § 2, effective May 4; (2)(b) amended, p. 1283, § 10, effective May 22. L. 95: (2)(b)(II) amended, p. 1101, § 27, effective May 31. L. 2009: (2)(a) amended, (SB 09-292), ch. 369, p. 1963, § 60, effective August 5.

**Editor's note:** Amendments to subsections (2)(b) and (4) in House Bill 94-1065 and House Bill 94-1174 were harmonized.

**22-32-116. Exclusion of nonresidents - exception.** (1) Notwithstanding the provisions of section 22-36-101, and except as otherwise provided for homeless children pursuant to section 22-1-102, any pupil who is enrolled as a resident student shall be entitled to complete the semester or other term for credit if such pupil becomes a nonresident, or, if such pupil becomes a nonresident while enrolled in the twelfth grade, such pupil shall be entitled to finish that school year as a resident.

(2) (a) The provisions of this subsection (2) are only applicable to elementary school-age children.

(b) If a pupil is enrolled in an elementary school and becomes a nonresident subsequent to the time of enrollment or becomes a nonresident during the time period between school years, the school district shall allow the pupil to remain enrolled in or to reenroll in said elementary school subject to the following requirements:

(I) The pupil was included in the most recent October pupil enrollment count taken by the school district and has been continuously enrolled in the elementary school since the date the count was taken;

(II) The parent or guardian of the pupil has made a written request to the principal of the elementary school asking for the pupil to remain enrolled in or to reenroll in the school; and

(III) The request has been approved by the principal of the elementary school following a finding that space exists in the school to accommodate the pupil.

(c) If the pupil's request is made and approved pursuant to this subsection (2), the school district shall permit the pupil to remain enrolled in or to reenroll in the requested elementary school. The school district of residence and the school district of attendance shall enter into a written agreement concerning the pupil as provided in section 22-32-115 (4).

(d) If the pupil that has received permission to reenroll in an elementary school pursuant to the provisions of this subsection (2) does not do so by the pupil enrollment count in October, the school district is no longer required to permit such reenrollment.

(e) Nothing in this subsection (2) may be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such pupil to and from the school of attendance.

**Source:** L. 64: p. 587, § 17. C.R.S. 1963: § 123-30-17. L. 73: p. 1280, § 1. L. 94: Entire section amended, p. 559, § 4, effective April 6; entire section amended, p. 1060, § 1, effective May 4. L. 2002: (1) amended, p. 206, § 5, effective July 1.

**Editor's note:** Amendments to this section in House Bill 94-1065 and House Bill 94-1174 were harmonized.

#### ANNOTATION

**Annotator's note.** Since § 22-32-116 is similar to repealed CSA, C. 146, § 89, and laws antecedent thereto, relevant cases construing those provisions have also been included in the annotations to this section.

**The terms "domicile" and "residence" are not synonymous** in this and other statutes setting forth residence requirements entitling children to school privileges. *Cline v. Knight*, 111 Colo. 8, 137 P.2d 680 (1943).

**Child placed in home is resident of district where home is located.** Where a father places his minor son with a family with the sole purpose of giving him a home with desirable influences and surroundings, and with no special reference to school privileges, the boy's resident for school purposes is in the district where such home is located, regardless of the fact that his

father resides in another district. *Fangman v. Moyers*, 90 Colo. 308, 8 P.2d 762 (1932).

**Where child was born and always lived in Denver and had never resided with her father or in the district wherein he resides, and the surrounding facts were that she never would, the child's "residence" for school purposes was in Denver where she lived with her aunt and she must be permitted to attend the public schools therein tuition free.** *Cline v. Knight*, 111 Colo. 8, 137 P.2d 680 (1943).

**The statute is unambiguous in that there is no right to "reenroll" for the following school year for a child who became a nonresident during the school year and remained enrolled during the school year.** *Bradshaw v. Cherry Creek Sch. Dist. No. 5*, 98 P.3d 886 (Colo. App. 2003).

**22-32-116.5. Extracurricular and interscholastic activities.** (1) (a) Notwithstanding any other provision of this article, each school district and each public school, subject to the requirements of this section, shall allow any student enrolled in a school or participating in a nonpublic home-based educational program to participate on an equal basis in any activity offered by the school district or the public school that is not offered at the student's school of attendance or through the student's nonpublic home-based educational program. A school district or school shall not adopt or agree to be bound by any rule or policy of any organization or association that would prohibit any participation allowed by this section. Each nonpublic school may allow a student to participate in a particular activity offered by the nonpublic school, at the nonpublic school's discretion.



(b) Any student may participate in an activity through any amateur association or league of which the school or school district is not a member, and such participation shall not prevent the student from participating or affect the student's eligibility to participate in the same activity at any school, subject to the limitations specified in this section. Prior to participating in any activity through such an amateur association or league, the student shall obtain the express written permission of the principal of the school at which the student participates in the activity, which permission shall be granted if:

(I) The student's class attendance is not compromised; and

(II) The student is in good academic standing under the school's activities policy applicable to all students.

(c) No school or school district that receives funds under article 54 of this title shall belong to any organization or association nor enforce any rule of a coach or principal that would prohibit a student's participation in any school or interscholastic school activity based upon the student's participation in lawful activities during out-of-school hours and off of school property.

(2) (a) A student may participate in activities only at the student's school of attendance or through the student's nonpublic home-based educational program, whichever is applicable, unless the school of attendance or nonpublic home-based educational program does not offer an activity in which the student wishes to participate.

(b) If a student's school of attendance or nonpublic home-based educational program does not offer an activity in which the student wishes to participate, the student may participate in the activity at another public school in the student's school district of attendance or in the student's school district of residence. If the activity is not offered at any public school in the school district of attendance or the school district of residence, the student may participate in the activity at a public school in a school district that is contiguous to the student's school district of residence or at the nearest public school that has the facilities for and offers the activity, even if the public school is not in a contiguous school district.

(c) If an activity is not offered at the student's school of attendance and the student chooses to participate in the activity at a public school in a contiguous school district, the school district in which the student chooses to participate, as provided in paragraph (b) of this subsection (2), shall choose the public school at which the student shall participate. In choosing a public school, the school district shall choose the public school that offers the greatest number of activities in which the student wishes to participate.

(d) A student may participate in activities at more than one school of participation during the same school year only if the original school of participation does not offer an activity in which the student wishes to participate.

(3) (a) If a student's school of attendance does not offer a particular activity, the student may choose to participate in the activity at a nonpublic school. The nonpublic school has discretion whether to allow the student to participate in an activity at the nonpublic school.

(b) A student may participate at a nonpublic school located in the student's school district of attendance or school district of residence. If the activity is not offered at a school in the student's school district of attendance or school district of residence, the student may apply to participate in the activity at a nonpublic school in a school district contiguous to the student's school district of residence.

(c) In choosing whether to participate in activities at a public or nonpublic school, the student shall choose the school of participation that offers the greatest number of activities in which the student wishes to participate. The limitation on the number of schools of participation specified in paragraph (d) of subsection (2) of this section applies regardless of whether the student participates in activities at a public or nonpublic school.

(4) (a) To participate in an activity at the school of attendance, a student shall meet all of the requirements imposed by the school of attendance.

(b) To participate in an activity at a school of participation, a student shall:

(I) If the student is participating in a nonpublic home-based educational program, comply with all laws governing said programs;

(II) Comply with all eligibility requirements imposed by the school of participation;

(III) Comply with the same responsibilities and standards of behavior, including related classroom and practice requirements, as are imposed on other students participating in the activity at the school of participation.

(5) A student who has not met all eligibility requirements for or who would have become ineligible to participate in activities at a school cannot gain or regain eligibility by applying to participate in activities at another school pursuant to this section. A student shall pay any penalty assessed against the student at the student's school of attendance or school of participation before the student may regain eligibility at the school of attendance or school of participation or become eligible to participate in any activity at another school.

(5.5) For each athletic activity offered, a school district may:

(a) For a team athletic activity, reserve for students enrolled in the district of the school of participation up to twice the number of starting positions on a team at each level of competition;

(b) For an individual athletic activity, reserve for students enrolled in the district of the school of participation up to one-half the total number of team members at each level of competition.

(6) (a) A school may charge any student participating in an activity a participation fee as a prerequisite to participation. The fee amount that a school of participation charges a nonenrolled student shall not exceed one hundred fifty percent of the fee amount the school of participation would charge an enrolled student to participate in the activity.

(b) If any fee is collected pursuant to this section for participation in an activity, the fee shall be used to fund the particular activity for which it is charged and shall not be expended for any other purpose.

(c) In addition to the fees allowed under paragraph (a) of this subsection (6), a school may charge a nonenrolled student participating in postseason competition in an individual athletic activity the actual cost of that postseason participation if the school is sponsoring only nonenrolled students in the postseason competition.

(7) For purposes of article 54 of this title, no student who participates in an activity in a school district other than the student's school district of attendance shall be included in the pupil enrollment of the school district where the student participates.

(8) The provisions of this section are intended to allow students to participate on an equal basis in extracurricular and interscholastic activities who would otherwise be denied the opportunity to do so and are not intended to sanction or encourage the recruitment of students for participation in such activities by schools or school districts.

(9) If a student transfers enrollment to another school without an accompanying change of domicile by the student's parent or legal guardian, the student's eligibility to participate in activities at the new school of attendance shall be determined under the rules of participation adopted by the school district in which the new school of attendance is located.

(9.5) (a) Notwithstanding any rule adopted or agreed to by any public school or school district, any student who is sanctioned or is found by the school, school district, or any organization or association to which the school or school district belongs to be ineligible to participate in any activity for any reason, except unsportsmanlike conduct or ejection from an activity, may appeal the sanction or finding. The appeal may be made through the applicable process at the school, any league to which the school or school district belongs, or any other organization to which the school or school district belongs.

(b) A student who has completed the appeal process described in paragraph (a) of this subsection (9.5) may file a petition or complaint with a group of sitting or retired judges or other group of neutral arbitrators approved by the school, school district, or any organization or association to which the school or school district belongs. In rendering his or her decision, the judge or arbitrator shall consider whether any rule was properly applied to the student and whether a waiver of any rule should be granted. A final decision shall be rendered by the judge or arbitrator no later than thirty days after the filing of the petition or complaint and shall be binding on the student, the school, the school district, and any association or organization to which the school or school district belongs. Any cost associated with a judge or arbitrator shall be charged equally to the student and any association or organization to which the school or school district belong.



(c) This subsection (9.5) shall not apply to any coach's team rules that are uniformly applicable to all team members; except that no coach may adopt a rule that is contrary to any provision of this section.

(10) As used in this section, unless the context otherwise requires:

(a) "Activity" means any extracurricular or interscholastic activity, including but not limited to any academic, artistic, athletic, recreational, or other activity offered by a school.

(b) "Nonpublic home-based educational program" has the same meaning as in section 22-33-104.5 (2).

(c) "Nonpublic school" means any independent or parochial school that provides a basic academic education, as defined in section 22-33-104 (2) (b).

(d) "Public school" means any school that is under the direction and control of a school district, including but not limited to a charter school.

(e) "School" includes any public school and nonpublic school.

(f) "School of attendance" means the school in which a student is enrolled and attends classes.

(g) "School district of attendance" means the school district in which a student is enrolled and attends classes or, if the student is participating in a nonpublic home-based educational program, except as provided for in section 22-33-104.5 (6) (b) (II) (B), the school district in which the student participates in said program.

(h) "School district of residence" means the school district in which a student resides.

(i) "School of participation" means a school, other than the student's school of attendance, in which the student participates in an activity.

**Source:** **L. 93:** Entire section added, p. 337, § 1, effective April 12. **L. 94:** (3) added, p. 1282, § 7, effective May 22; entire section amended, p. 2836, § 1, effective June 7. **L. 96:** Entire section amended, p. 1018, § 1, effective May 23. **L. 97:** (1) and (6)(a) amended and (9.5) added, p. 166, § 1, effective March 28; (1)(c) added, p. 587, § 19, effective April 30. **L. 2000:** (10)(g) amended, p. 372, § 23, effective April 10. **L. 2001:** (5.5) added and (6) amended, p. 11, § 1, effective February 22. **L. 2003:** (9) amended, p. 1220, § 1, effective April 22. **L. 2004:** (2)(b) and (2)(c) amended, p. 17, § 1, effective March 1. **L. 2010:** (9.5)(b) amended, (HB 10-1064), ch. 54, p. 200, § 1, effective August 11.

**Editor's note:** Amendments to this section by House Bill 94-1097 and House Bill 94-1365 were harmonized.

**Cross references:** For further provisions concerning student participation in interscholastic activities in a school they do not attend, see § 22-33-104.5.

**22-32-117. Miscellaneous fees.** (1) When the use of textbooks is provided pursuant to section 22-32-110 (1) (o), whether free or by rental, a board of education of a school district may require each nonindigent pupil to make a reasonable loss or damage deposit to cover such textbooks. A board may also require each nonindigent pupil to make a reasonable loss or damage deposit to cover nonacademic equipment. All such deposits shall be refunded to the pupil when he or she has returned the textbooks or equipment in good condition except for ordinary wear.

(2) (a) A board may require a pupil to pay:

(I) Tuition as authorized by law;

(II) Any fees reasonably necessary for and reasonably related to the actual cost of textbooks or expendable supplies not provided free of charge;

(III) Charges and fees authorized by this section and section 22-32-118;

(IV) Miscellaneous fees collected on a voluntary basis as a condition of participation or attendance at a school-sponsored activity or program not within the academic portion of the educational program.

(b) Except as provided in paragraph (a) of this subsection (2), a board may not require a pupil who has not completed the twelfth grade to pay:

(I) Any fees as a condition of enrollment in school or as a condition of attendance in any course of study, instruction, or class;

(II) Any fees for any course of study, instruction, or class that satisfies the requirements of or transfers the skill, knowledge, or information necessary to meet the requirements of any such course taken for credit, promotion, or graduation.

(c) Any fee collected pursuant to the provisions of this subsection (2) shall be used for the purpose set forth in the resolution of the board authorizing the collection of such fee and shall not be expended for any other purpose. A complete list of fees, how the amount of each fee was derived, and the purpose of each fee shall be made available by the board upon request.

(3) Whenever a board or public school publicizes any information concerning any fee authorized to be collected pursuant to this section, the board or school shall clearly state whether the fee is voluntary or mandatory and shall specify any activity from which the student shall be excluded if the fee is not paid.

**Source:** L. 64: p. 587, § 18. C.R.S. 1963: § 123-30-18. L. 94: (2) amended, p. 804, § 5, effective April 27. L. 95: (1) amended and (2) R&RE, p. 347, §§ 3, 4, effective January 1, 1996. L. 97: (2)(c) amended and (3) added, p. 164, § 1, effective March 28.

**Cross references:** For the legislative declaration contained in the 1995 act amending subsections (1) and (2), see section 1 of chapter 113, Session Laws of Colorado 1995.

#### ANNOTATION

**Indigent cannot be required to pay certain fees and expenditures.** Pacheco v. Sch. Dist. No. 11, 183 Colo. 270, 516 P.2d 629 (1973).

**Applied** in Marshall v. Sch. Dist. Re-3, 191 Colo. 451, 553 P.2d 784 (1976).

**22-32-118. Summer schools - continuation, evening, and community education programs.** (1) During that period of the calendar year not embraced within the regular school term, a board of education may provide and conduct courses in subject matters normally included in the regular school program or in demand by the pupils of the district, may fix and collect a charge for attendance at such courses in an amount not to exceed the per capita cost of the operation thereof, and may give regular school credit for satisfactory completion by students of such courses, in the discretion of the board. Such courses or programs not conducted during the regular school term shall not for any purpose, other than school credit, be considered part of the regular school program.

(2) (a) A board of education may establish and maintain continuation programs, part-time programs, evening programs, vocational programs, programs for aliens, and other opportunity programs and may pay for such programs out of the moneys of the school district or charge a fee or tuition. A board may also establish and maintain open-air schools, playgrounds, and museums and may pay for the same out of moneys of the school district.

(b) In addition to the authority granted to a board of education in paragraph (a) of this subsection (2), a board may establish and maintain community education programs in cooperation with any unit of local government, quasi-governmental agency, institution of higher education, or civic organization and may pay for such programs by a fee or tuition charged or out of moneys of the school district. Attendance in community education programs shall not be considered in computing pupil enrollment under article 54 of this title and articles 8 and 60 of title 23, C.R.S.

(c) For the purposes of this subsection (2), a "community education program" may be defined as a program which, while not interfering with the regular school program, may offer a composite of services to the citizens of its service area, including, but not limited to, year-round use of the facilities and personnel of the school for off-hours educational, cultural, recreational, and social enrichment activities for children, youth, and adults; family education and counseling, civic affairs meetings, and discussions; counseling for teenagers; community organization activities; senior citizen activities; cooperation with other social agencies and groups in improving community life; and other similar activities which



provide educational, social, cultural, and recreational programs for children, youth, and adults. As used in this paragraph (c):

(I) "Senior citizen" means a person sixty years of age or older and includes the spouse of a senior citizen.

(II) "Senior citizen activity" includes, but is not limited to:

(A) Provision for the serving to senior citizens of the meals regularly served to students at regular mealtimes and at a price not to exceed the adult cost of the meal as determined by the board of education of the school district;

(B) Senior citizen volunteer programs in which senior citizens may assist in any or all aspects of school operation;

(C) Utilization of school facilities for senior citizens' social, educational, cultural, and recreational purposes.

(d) Repealed.

(3) Any charge, fee, or tuition collected pursuant to the provisions of this section shall be used to fund the program for which the charge, fee, or tuition was collected and shall not be expended for any other purpose.

**Source:** L. 64: p. 587, § 19. C.R.S. 1963: § 123-30-19. L. 74: (2) amended, p. 367, § 1, effective April 30. L. 75: (2)(d) added, p. 700, § 1, effective July 14. L. 76: (2)(c) amended, p. 566, § 1, effective April 6. L. 88: (2)(b) amended and (2)(d) repealed, pp. 812, 832, §§ 11, 42, effective May 24. L. 94: (2)(b) amended and (3) added, pp. 805, 813, §§ 8, 28, effective April 27.

**Cross references:** For provisions concerning the establishment of preschool programs, see article 28 of this title.

**22-32-118.5. Intervention strategies - students at risk of dropping out - legislative declaration.** (1) The general assembly finds that research shows there are certain behaviors such as truancy, low academic achievement, and misbehavior that results in suspension or expulsion that, when exhibited by a student, are clear indications that the student is at increased risk of dropping out of school before graduation. These behaviors are often noticeable as early as grades six through nine and, even at this relatively early stage of a student's academic career, are accurate predictors of whether the student will graduate or drop out of high school. The general assembly further finds that interventions with students who demonstrate these behaviors in these middle grades can be very successful in enabling the student to refocus his or her efforts, improve in academic achievement, and successfully graduate from high school. Therefore, it is the intent of the general assembly that school districts and public schools focus attention on the data collected for students in these middle grades, identify students who require interventions, and provide the appropriate interventions to assist students in graduating from high school.

(2) (a) Each school district board of education shall consider adopting procedures by which the schools of the school district, including charter schools, that include any of grades six through nine shall review the relevant data for students in those grades and identify students who are demonstrating behaviors that indicate the student is at greater risk of dropping out of school. The behaviors may include, but need not be limited to, low academic achievement, truancy, insubordinate behavior, and disengagement.

(b) The procedures may specify that, after a school identifies a student as being at increased risk of dropping out of school, the school shall provide appropriate interventions that are designed to assist the student in improving his or her academic performance and behavior and in increasing his or her overall level of engagement in school. Interventions may include, but need not be limited to, counseling, tutoring, parent engagement, and developmental education services.

(c) If a school district board of education adopts procedures pursuant to this subsection (2), the school district shall notify a student's parents as soon as possible after the school district identifies the student as being at greater risk of dropping out of school. The school district shall provide to the student's parents a description of the interventions that the school district intends to implement for the student, if any. The parent may approve or reject

the described interventions. If the parent rejects the interventions, the school district shall not implement the interventions. The parent may terminate the interventions at any time after the school district begins providing the interventions.

(d) A parent may contact the school district in which his or her student is enrolled to request interventions pursuant to this subsection (2) if the parent determines that the student is at greater risk of dropping out of school.

**Source: L. 2012:** Entire section added, (HB 12-1013), ch. 23, p. 59, § 1, effective August 8.

**22-32-119. Kindergartens.** (1) A board of education shall establish and maintain kindergartens in connection with the schools of its district for the instruction of children one year prior to the year in which such children would be eligible for admission to the first grade. Said board may prescribe courses of training, study, and discipline and rules and regulations governing such kindergarten programs. Said kindergartens shall be a part of the public school system, and the cost of establishing and maintaining them may be paid from the general school fund.

(1.5) (Deleted by amendment, L. 2005, p. 433, § 6, effective April 29, 2005.)

(2) and (3) Repealed.

**Source: L. 64:** p. 588, § 20. **C.R.S. 1963:** § 123-30-20. **L. 2001:** Entire section amended, p. 561, § 4, effective May 29. **L. 2002:** (2)(a) amended, p. 1020, § 31, effective June 1. **L. 2003:** (1.5) added and (2)(e) amended, pp. 2139, 2128, §§ 43, 20, effective May 22. **L. 2004:** (1) amended, p. 1394, § 14, effective May 28. **L. 2005:** (1) amended, p. 69, § 1, effective March 25; (1.5) amended and (3) added, p. 433, § 6, effective April 29. **L. 2006:** (3) repealed, p. 695, § 38, effective April 28.

**Editor's note:** Subsection (2)(e) provided for the repeal of subsection (2), effective July 1, 2003. (See L. 2003, p. 2128.)

**Cross references:** For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 174, Session Laws of Colorado 2001.

**22-32-119.5. Full-day kindergarten - legislative declaration - phase-in plan - report.** (1) (a) The general assembly hereby finds and declares that:

(I) Rigorous research proves that full-day kindergarten is an effective way of improving a child's academic performance;

(II) Research shows that children who have academic success are less likely to drop out of school and more likely to graduate from high school and enter an institution of higher education, leading them to higher-paying jobs that provide for a strong economy in the state;

(III) Studies show that full-day kindergarten programs address achievement gap issues and promote student achievement;

(IV) All children in Colorado deserve the chance to attend a full day of kindergarten, as the benefits of full-day kindergarten continue throughout a child's educational experience and set the tone for future academic success.

(b) The general assembly further finds and declares that while the benefits of full-day kindergarten programs are evident, the general assembly may be unable to provide funding to allow every eligible child in the state to attend a full day of kindergarten. As a result, determining an approach to phase in full-day kindergarten programs is the first step toward potentially offering full-day kindergarten programs statewide. The development of a plan by each local board of education to phase in a full-day kindergarten program at the district level is essential to ensure that the appropriate mechanisms are in place to support and maintain high-quality, full-day kindergarten programs in Colorado.

(2) Each local board of education shall develop a plan to potentially phase in a full-day kindergarten program in the school district to be funded with state or local moneys provided



specifically for such program. In developing the plan, each local board shall consider the following:

(a) Available space in existing school district facilities for a full-day kindergarten program;

(b) The need and cost of new school district facilities necessary to offer a full-day kindergarten program, including but not limited to, the cost associated with construction, acquisition, reconfiguration, or renovation of new or existing facilities;

(c) A method to identify the children who would most benefit from attending a full day of kindergarten, including but not limited to:

(I) Children who lack overall learning readiness due to significant family risk factors, who are in need of language development, or who are receiving services from the department of human services pursuant to article 5 of title 26, C.R.S., as neglected or dependent children;

(II) Children who are currently enrolled in the Colorado preschool program;

(III) Children who are eligible for free or reduced lunch; and

(IV) Children who are enrolling in an elementary school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210;

(d) Professional development and staffing needs;

(e) A method to prioritize the children to be served by a full-day kindergarten program if state and local funding for the program is insufficient to allow every eligible child in the school district to attend a full day of kindergarten;

(f) A plan for parent and community outreach and enrollment processes; and

(g) The anticipated enrollment in a full-day kindergarten program, including the percentage of eligible children in the school district that will choose to enroll in the program.

(3) Each local board of education shall submit its plan to phase in a full-day kindergarten program to the department of education on or before February 1, 2008. Any school district that has developed a full-day kindergarten plan within the five years prior to May 9, 2007, may submit the previously developed plan to the department in lieu of developing a plan pursuant to this section.

(4) Nothing in this section shall be construed to:

(a) Require a child to attend a full day of kindergarten;

(b) Prohibit a school district from offering a half-day kindergarten program; or

(c) Require a local board of education to implement the school district's plan to phase in a full-day kindergarten program without state funding for the program.

**Source: L. 2007:** Entire section added, p. 741, § 18, effective May 9. **L. 2009:** (2)(c)(IV) amended, (SB 09-163), ch. 293, p. 1542, § 43, effective May 21; (2)(c)(II) amended, (SB 09-292), ch. 369, p. 1963, § 61, effective August 5.

**22-32-120. Food services - facilities - school food authorities - rules.** (1) (a) A board of education may establish, maintain, equip, and operate a food-service facility, and expend the moneys of the district therefor, for pupils enrolled in the public schools of the district, for persons participating in or attending a school-sponsored activity, and for the employees of the district. Any such food-service facility shall be deemed to be an integral part of the program of the district and shall be maintained, operated, and governed in the same manner as the schools of the district.

(b) A school food authority may establish, maintain, equip, and operate a food-service facility for pupils enrolled in a district charter school or institute charter school that contracts with the school food authority, for persons participating in or attending a district charter school-sponsored or institute charter school-sponsored activity, and for the employees of a district charter school or institute charter school that contracts with the school food authority.

(2) All food shall be sold by a food-service facility as nearly as practicable on a nonprofit basis, but a school food authority may sell food at lower than cost and may provide food free of charge to those pupils entitled thereto pursuant to the provisions of the

federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq. Capital outlay and rental costs shall not be included in computing the cost of the meals served.

(3) Upon the written request from a parent or guardian of a school-age pupil enrolled in a school, such pupil shall not be required to participate in a food-service program or remain on the school premises during the lunch period.

(4) If a district charter school requests in writing that the school district of the district charter school provide food services pursuant to a contract with the district charter school that includes terms specified by the district charter school, the school district board of education may attempt to negotiate the terms of the contract with the district charter school. If the school district board of education and the district charter school attempt to negotiate contract terms that are mutually satisfactory, and the negotiations fail to produce such mutually satisfactory terms, the school district board of education shall:

(a) Agree to provide food services to the district charter school according to the terms requested by the district charter school; or

(b) Allow the district charter school to transfer the maintenance, supervision, and operation of the district charter school’s food-service facility from the district to a school food authority.

(5) (a) Using the timeline and procedures established by rules promulgated by the state board of education pursuant to paragraph (a) of subsection (7) of this section, a district charter school or an institute charter school may apply to the department of education for authorization as a school food authority.

(b) Using the timeline, standards, and procedures established by rules promulgated by the state board of education pursuant to paragraph (b) of subsection (7) of this section, the department of education shall grant or deny authorization as a school food authority to a district charter school or an institute charter school that applies for the authorization pursuant to paragraph (a) of this subsection (5).

(6) (a) On and after May 4, 2009, a district charter school or an institute charter school may submit a written request to the department of education for provisional authorization as a school food authority.

(b) On and after May 4, 2009, the commissioner of education or his or her designee may grant or deny provisional authorization as a school food authority to a district charter school or institute charter school that submits a written request for such authorization to the department of education.

(c) (I) Subject to the provisions of subparagraph (II) of this paragraph (c), if the commissioner of education or his or her designee grants provisional authorization to a district charter school or an institute charter school as a school food authority pursuant to this subsection (6), the department of education shall review the provisional authorization and, using the standards established by rules promulgated by the state board of education pursuant to paragraph (b) of subsection (7) of this section, grant or deny authorization as a school food authority to the district charter school or institute charter school.

(II) Before granting authorization as a school food authority to a district charter school or an institute charter school that was granted provisional authorization as a school food authority pursuant to this subsection (6), the department of education shall ensure that the district charter school or institute charter school has completed one full fiscal year of operation as a school food authority under the provisional authorization granted pursuant to this subsection (6), that the district charter school or institute charter school has submitted its governmental audit required pursuant to section 22-30.5-112 (7) to the department, and that the district charter school or institute charter school has successfully complied with the requirements of the “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq., as determined by the department’s compliance review evaluation process and has taken any necessary corrective actions identified by the department. The department shall grant or deny authorization as a school food authority to a district charter school or institute charter school within forty-five days after the school has satisfied the requirements of this subparagraph (II).

(d) Notwithstanding any provision of this subsection (6) to the contrary, the commissioner of education or his or her designee shall not grant provisional authorization as a



school food authority to more than six applicant district charter schools or institute charter schools.

(e) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1900, § 9, effective June 10, 2010.)

(7) On or before October 1, 2009, the state board of education shall promulgate rules establishing:

(a) A timeline and procedures by which a district charter school or an institute charter school may apply to the department of education for authorization as a school food authority; and

(b) A timeline, standards, and procedures for the department of education to use in granting or denying authorization as a school food authority to a district charter school or an institute charter school. The standards shall include, at a minimum, the following requirements:

(I) The district charter school or institute charter school shall serve at least a minimum number of children, specified by rule, who are enrolled in the district charter school or institute charter school;

(II) The district charter school or institute charter school shall demonstrate its sound financial status to the satisfaction of the department of education;

(III) The district charter school or institute charter school shall demonstrate, to the satisfaction of the department of education, its capacity to operate a food service program;

(IV) The district charter school or institute charter school shall include in its application a statement of its willingness to contract, to the extent practicable, with other district charter schools and institute charter schools to provide a food service program; and

(V) The department of education shall not grant authorization as a school food authority to more than ten applicant district charter schools or institute charter schools until July 1, 2016, including any district charter schools or institute charter schools that have been granted provisional authorization pursuant to subsection (6) of this section.

(8) As used in this section, "school food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to subsection (6) of this section; or

(II) The department of education authorizes as a school food authority pursuant to subsection (5) of this section.

**Source:** L. 64: p. 588, § 21. C.R.S. 1963: § 123-30-21. L. 2009: (1) and (2) amended and (4), (5), (6), (7), and (8) added, (SB 09-230), ch. 227, p. 1030, § 1, effective May 4. L. 2010: (6) and (7)(b)(V) amended, (HB 10-1013), ch. 399, p. 1900, § 9, effective June 10; (8)(a) amended and (8)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 5, effective August 11; (8)(b)(I) amended, (HB 10-1422), ch. 419, p. 2077, § 42, effective August 11. L. 2011: (7)(b)(V) amended, (HB 11-1303), ch. 264, p. 1161, § 47, effective August 10; (8)(a.3) added, (HB 11-1277), ch. 306, p. 1505, § 36, effective August 10. L. 2012: (7)(b)(V) amended, (HB 12-1240), ch. 258, p. 1312, § 16, effective June 4.

**22-32-121. Facsimile signature.** (1) A board of education may authorize an employee to affix the signature of the treasurer, or assistant treasurer if any, to any warrant, order, or check by any device capable of affixing a facsimile signature; but each such officer shall give written consent to the board for the use of such facsimile signature and written approval of the employee designated to affix his facsimile signature.

(2) The authorization by a board of an employee to affix signatures pursuant to subsection (1) of this section shall be evidenced by a resolution adopted by the board, which, together with the written consent of the officer consenting thereto and approving the designated employee, shall be recorded in the proceedings of the board.

(3) Any employee authorized and approved pursuant to the provisions of this section to affix the facsimile signature of the treasurer, or assistant treasurer if any, of a board shall be bonded in such amount and manner as may be required for the said respective officers.

(4) If a board of education does not elect to have its moneys withdrawn from the county treasurer in the manner authorized by law and an employee is authorized and designated to affix a facsimile signature of the treasurer, or assistant treasurer if any, pursuant to subsection (1) of this section, the board shall cause a copy of the resolution and written consent of such officer to be forwarded to the county treasurer who has temporary custody of the moneys of the district.

**Source: L. 64: p. 588, § 22. C.R.S. 1963: § 123-30-22.**

**22-32-122. Contract services, equipment, and supplies.** (1) A school district may contract with another district, with the governing body of a state college or university, with the tribal corporation of an Indian tribe or nation, with a federal agency or officer, with a county, city, or city and county, or with a natural person, body corporate, or association for the performance of a service, including an educational service, an activity, or an undertaking that a school may be authorized by law to perform or undertake.

(2) Each school district board of education may review and revise the policies and procedures adopted by the board pursuant to section 22-32-109 (1) (b) and may choose to require competitive bidding on contracts for professional services, other than contracts for instructional services. A policy adopted pursuant to this subsection (2) may:

(a) Require that the school district personnel, prior to recommending that the board of education enter into a contract pursuant to this section, examine the costs and benefits of contracting for the service, activity, or undertaking rather than performing the service, activity, or undertaking using school district personnel and that the recommendation specify the conclusions of the cost-benefit analysis and their rationale;

(b) Require the school district personnel to implement a bidding process for contracts entered into pursuant to this section; and

(c) Establish criteria for recommending a contractor to the board of education.

(3) (a) A contract entered into pursuant to this section shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall require the service, including educational service, activity, or undertaking to be of comparable quality and meet the same requirements and standards that would apply if performed by the school district.

(b) A contract executed pursuant to this section may include, among other things, the purchase, outright or by installment sale, or rental or lease, with or without an option to purchase, of necessary building facilities, equipment, supplies, and employee services.

(c) Any state or federal financial assistance that would accrue to a contracting school district, if the district were to perform the contracted service, including educational service, activity, or undertaking individually, shall, if the state board of education finds the contracted service, including educational service, activity, or undertaking is of comparable quality and meets the same requirements and standards that would apply if performed by a school district, be apportioned by the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner prescribed by law.

(4) (a) A contract executed pursuant to this section that includes services performed for a public school shall include a provision requiring a criminal background check for any person providing services under the contract, including any subcontractor or other agent of the contracting entity, if the person provides direct services to students, including but not limited to transportation, instruction, or food services. The criminal background check shall, at a minimum, meet the requirements of section 22-32-109.7 and any other requirements of the school district that executes the contract. The contracting entity is responsible for any costs associated with the background check. A contractor need not provide the results of the background check with the submission of the bid but shall make the background check results available upon request of the school board in compliance with the provisions of section 24-72-305.3, C.R.S.



(b) The background check described in paragraph (a) of this subsection (4) is required only for those persons who have regular, but not incidental, contact with students at least once a month.

(c) The provisions of paragraph (a) of this subsection (4) do not apply to a faculty member from an institution of higher education who contracts to teach for a school district and who has undergone a background check that meets the requirements of section 22-32-109.7 and any other requirements of the school district with which the faculty member contracts.

(5) Nothing in this section authorizes a school district to expend proceeds from the sale of general obligation or revenue bonds issued by the school district to procure or erect a school or other building beyond the territorial limits of the district except in accordance with the provisions of section 22-32-109 (1) (v).

**Source:** L. 64: p. 589, § 23. C.R.S. 1963: § 123-30-23. L. 67: p. 1078, § 1. L. 75: (2) amended, p. 786, § 5, effective July 1. L. 77: (1) amended, p. 1050, § 2, effective June 10. L. 79: (2) amended, p. 783, § 3, effective June 7. L. 93: Entire section amended, p. 669, § 1, effective April 30; (1) amended, p. 1648, § 42, effective July 1. L. 2011: (1.5) added, (SB 11-266), ch. 241, p. 1052, § 1, effective May 27. L. 2012: Entire section amended, (SB 12-051), ch.200, p. 800, § 1, effective August 8.

**Editor's note:** Subsection (1) was amended in Senate Bill 93-242. Those amendments were superseded by the amendment of the entire section in House Bill 93-1118.

**22-32-123. Penalty.** Any officer or employee who refuses to perform a duty required by law when specifically directed to perform such duty by the board of education is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**Source:** L. 64: p. 590, § 24. C.R.S. 1963: § 123-30-24.

**22-32-124. Building codes - zoning - planning - fees - rules - definitions.**  
(1) (a) Prior to the acquisition of land or any contracting for the purchase thereof, the board of education of the school district in which the land is located shall consult with and advise in writing the planning commission, or governing body if no planning commission exists, that has jurisdiction over the territory in which the site is proposed to be located in order that the proposed site shall conform to the adopted plan of the community insofar as is feasible. In addition, the board of education shall submit a site development plan for review and comment to the planning commission or governing body prior to construction of any structure or building. The planning commission or governing body may request a public hearing before the board of education relating to the proposed site location or site development plan. The board of education shall thereafter promptly schedule the hearing, publish at least one notice in advance of the hearing, and provide written notice of the hearing to the requesting planning commission or governing body.

(b) Prior to the acquisition of land for school building sites or construction of any buildings thereon, the board of education of the school district in which the land is located also shall consult with the Colorado geological survey regarding potential swelling soil, mine subsidence, and other geologic hazards and to determine the geologic suitability of the site for its proposed use.

(c) All buildings and structures shall be constructed in conformity with the building and fire codes adopted by the director of the division of fire prevention and control in the department of public safety, referred to in this section as the "division".

(d) Nothing in this subsection (1) shall be construed to limit the authority of a board of education to finally determine the location of the public schools of the school district and construct necessary buildings and structures.

(1.5) (a) Prior to contracting for a facility, a charter school shall advise in writing the planning commission, or governing body if no planning commission exists, which has jurisdiction over the territory in which the site is proposed to be located. The relevant planning commission or governing body may request the charter school to submit a site development plan for the proposed facility, but must issue such request, if any, within ten days after receiving the written advisement. If requested by the relevant planning commission or governing body, the charter school, acting on behalf of its sponsoring school board, shall submit such a site development plan. The relevant planning commission or governing body may review and comment on such plan to the governing body of the charter school, but must do so, if at all, within thirty days after receiving such plan. The relevant planning commission or governing body, if not satisfied with the response to such comments, may request a hearing before the board of education regarding such plan. Such hearing shall be held, if at all, within thirty days after the request of the relevant planning commission or governing body. The charter school then may proceed with its site development plan unless prohibited from doing so by school board resolution.

(b) An institute charter school authorized pursuant to part 5 of article 30.5 of this title shall proceed pursuant to the provisions of this subsection (1.5). Notwithstanding the provisions of paragraph (a) of this subsection (1.5) to the contrary, the relevant planning commission or governing body may request a hearing before the state board of education. The institute charter school then may proceed with its site development plan unless prohibited from doing so by the state board of education.

(2) (a) (I) (A) This subsection (2) shall apply to building or structure construction. Except as specified in subparagraph (II) of this paragraph (a), the division shall conduct the necessary plan reviews, issue building permits, cause the necessary inspections to be performed, perform final inspections, and issue certificates of occupancy to assure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division and that the school district or charter school, whichever is appropriate, has complied with the provisions of paragraph (b) of subsection (1) of this section. Pursuant to this sub-subparagraph (A), the division may contract with third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. The affected board of education, state charter school institute, or charter school may hire and compensate third-party inspectors under contract with the division or hire and compensate other third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. If the board of education, state charter school institute, or charter school is unable to obtain a third-party inspector and no building department has been prequalified, the division shall perform the required inspections. If a third-party inspector is used, the division shall require a sufficient number of third-party inspection reports to be submitted by the inspector to the division based upon the scope of the project to ensure quality inspections are performed. Except as specified in sub-subparagraph (B) of this subparagraph (I), the third-party inspector shall attest that inspections are complete and all violations are corrected before the board of education, state charter school institute, or charter school is issued a certificate of occupancy. Inspection records shall be retained by the third-party inspector for two years after the certificate of occupancy is issued. If the division finds that inspections are not completed satisfactorily, as determined by rule of the division, or that all violations are not corrected, the division shall take enforcement action against the appropriate board of education, state charter school institute, or charter school pursuant to section 24-33.5-1213, C.R.S.

(B) If inspections are not completed and a building requires immediate occupancy, and if the board of education, state charter school institute, or charter school has passed the appropriate inspections that indicate there are no life safety issues, the division may issue a temporary certificate of occupancy. The temporary certificate of occupancy shall expire ninety days after the date of occupancy. If no renewal of the temporary certificate of occupancy is issued or a permanent certificate of occupancy is not issued, the building shall be vacated upon expiration of the temporary certificate. The division shall enforce this sub-subparagraph (B) pursuant to section 24-33.5-1213, C.R.S.



(II) Pursuant to a memorandum of understanding between the appropriate building department and the division, the division may prequalify an appropriate building department to conduct the necessary plan reviews, issue building permits, conduct inspections, issue certificates of occupancy, and issue temporary certificates of occupancy pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a), to ensure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division, and take enforcement action. Nothing in the memorandum of understanding shall be construed to allow the building department to take enforcement action other than in relation to the building and fire codes adopted by the division. An appropriate building department shall meet certification requirements established by the division pursuant to section 24-33.5-1213.5, C.R.S., prior to prequalification. An affected board of education, state charter school institute, or charter school may, at its own discretion, opt to use a prequalified building department that has entered into a memorandum of understanding with the division as the delegated authority. If a building department conducts an inspection, the building department shall retain the inspection records for two years after the final certificate of occupancy is issued. The fees charged by the building department shall cover actual, reasonable, and necessary costs. For purposes of this section, "appropriate building department" means the building department of a county, town, city, or city and county and includes a building department within a fire department.

(III) The division shall cause copies of the building plans to be sent to the appropriate fire department for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within twenty business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans.

(IV) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division shall perform the plan review or inspection. As used in this section, unless the context otherwise requires, "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

(V) If the building or structure is in conformity with the building and fire codes adopted by the director of the division, and if the appropriate fire department or the division certifies that the building or structure is in compliance with the fire code adopted by the director of the division, the division or the appropriate building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the school district or by the institute charter school. The division is authorized to charge a fee to cover the actual, reasonable, and necessary costs of the inspections of buildings and structures. The amount of the fee shall be determined by the director of the division by rule, on the basis of the direct cost of providing the service.

(VI) If the division authorizes building code inspections by a third-party inspector pursuant to subparagraph (I) of this paragraph (a) or authorizes building code plan reviews and inspections by an appropriate building department pursuant to subparagraph (II) of this paragraph (a), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subsection (2) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the third-party inspector or appropriate building department does not conduct the plan reviews and inspections. Nothing in this subsection (2) shall be construed to require a county, town, city, city and county, or fire department to conduct building code plan reviews and inspections.

(b) (I) If the division conducts the necessary plan reviews and causes the necessary inspections to be performed to determine that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division, the division shall charge fees as established by rule of the director of the division. The fees shall cover the actual, reasonable, and necessary expenses of the division. The director of the division by rule or as otherwise provided by law may increase or reduce the amount of the fees as necessary

to cover actual, reasonable, and necessary costs of the division. Any fees collected by the division pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(II) Any moneys remaining as of December 31, 2009, in the public safety inspection fund created pursuant to section 8-1-151, C.R.S., from fees collected by the division of oil and public safety in the department of labor and employment pursuant to this paragraph (b) as it existed prior to January 1, 2010, shall be transferred to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(c) (Deleted by amendment, L. 2009, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010.)

(d) The inspecting entity shall cooperate with the affected board of education or the state charter school institute in carrying out the duties of this section.

(e) If the inspecting entity and the board of education or the state charter school institute disagree on the interpretation of the codes or standards adopted by the division, the division shall set a date for a hearing as soon as practicable before the board of appeals in accordance with section 24-33.5-1213.7, C.R.S., and the rules adopted by the director of the division pursuant to article 4 of title 24, C.R.S.

(f) The rules authorized by this subsection (2) shall be adopted in accordance with article 4 of title 24, C.R.S.

(g) School buildings shall be maintained in accordance with the fire code adopted by the director of the division pursuant to section 24-33.5-1203.5, C.R.S.

(3) (Deleted by amendment, L. 2009, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010.)

**Source:** L. 64: p. 590, § 25. C.R.S. 1963: § 123-30-25. L. 81: Entire section amended, p. 1064, § 1, effective June 12. L. 84: (1) R&RE and (2) amended, pp. 599, 600, §§ 1, 2, effective April 5. L. 85: (2) amended, p. 338, § 6, effective July 1. L. 86: Entire section amended, p. 499, § 118, effective March 26. L. 98: (2)(b) amended, p. 1331, § 41, effective June 1. L. 2000: (1.5) added, p. 519, § 2, effective August 2. L. 2001: (1), (2), and (3) amended, p. 1138, § 66, effective June 5. L. 2004: (2) amended, p. 1592, § 28, effective June 3; (1.5) amended, p. 1635, § 39, effective July 1. L. 2006: (1), (2), and (3) amended, p. 1355, § 2, effective July 1. L. 2007: (2)(a)(IV) amended, p. 2031, § 44, effective June 1. L. 2008: (2)(a), (2)(b), (2)(c), and (3) amended, p. 1084, § 1, effective August 5. L. 2009: (1), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(a)(V), (2)(b), (2)(c), (2)(e), and (3) amended and (2)(g) added, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010. L. 2011: (2)(a)(I)(A) amended, (SB 11-251), ch. 240, p. 1043, § 4, effective June 30. L. 2012: (1)(c) amended, (HB 12-1283), ch. 240, p. 1132, § 41, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (1)(c), see section 1 of chapter 240, Session Laws of Colorado 2012.

## ANNOTATION

**The authority of the director of the division of labor to inspect school buildings** for fire prevention purposes or to issue fire code enforcement orders to school districts must be implied because it is not expressly granted by this section. *W. Adams County Fire v. Adams County Sch. Dist. 12*, 926 P.2d 172 (Colo. App. 1996).

**The authority of the director of the division of labor in § 8-1-107 (2)(d) to “enforce” the provisions of this section** is not exclusive but may also be taken by a fire protection district absent the school district’s exercise of authority to contract with a qualified fire inspector. *W. Adams County Fire v. Adams County Sch. Dist. 12*, 926 P.2d 172 (Colo. App. 1996).



**22-32-124.5. Board of appeals - definitions. (Repealed)**

**Source:** L. 2006: Entire section added, p. 1358, § 3, effective July 1. L. 2009: Entire section repealed, (HB 09-1151), ch. 230, p. 1060, § 16, effective January 1, 2010.

**22-32-125. Applicability of article. (Repealed)**

**Source:** L. 64: p. 590, § 26. C.R.S. 1963: § 123-30-26. L. 75: Entire section repealed, p. 788, § 13, effective July 1.

**22-32-126. Principals - employment and authority.** (1) The board of education may employ through written contract public school principals who shall hold valid principal licenses or authorizations and who shall supervise the operation and management of the school and such property as the board shall determine necessary.

(2) The principal shall assume the administrative responsibility and instructional leadership, under the supervision of the superintendent and in accordance with the rules and regulations of the board of education, for the planning, management, operation, and evaluation of the educational program of the schools to which he is assigned.

(3) The principal shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school under his supervision.

(4) The principal shall perform such other duties as may be assigned by the superintendent pursuant to the rules and regulations of the board of education.

(5) (a) The principal or the principal's designee shall communicate discipline information concerning any student enrolled in the school to any teacher who has direct contact with the student in the classroom and to any counselor who has direct contact with the student. Any teacher or counselor who receives information under this subsection (5) shall maintain the confidentiality of the information and does not have authority to communicate the information to any other person.

(b) Each school district shall include in its discipline code adopted in accordance with section 22-32-110 (2) procedures to inform the student and the student's parent or guardian when disciplinary information is communicated and to provide a copy of the disciplinary information to the student and the student's parent or guardian. The discipline code shall also establish procedures to allow the student and the student's parent or guardian to challenge the accuracy of the disciplinary information.

**Source:** L. 73: p. 1284, § 1. C.R.S. 1963: § 123-30-27. L. 96: (5) added, p. 431, § 2, effective April 22. L. 2004: (1) amended, p. 1286, § 20, effective May 28.

**ANNOTATION**

**As letters of reprimand are authorized under this section** and under plaintiff's contract, the issuance of letters and their permanent placement in plaintiff's personnel file did not implicate due process. *Perez v. Denver Pub. Schs.*, 919 P.2d 960 (Colo. App. 1996).

**Principal has the authority to adopt policies, rules, and regulations** to implement school policy. *DeKoevend v. Bd. of Educ.*, 653 P.2d 743 (Colo. App. 1982), rev'd on other grounds, 688 P.2d 219 (Colo. 1984).

The administrative responsibilities set forth in this section could not be carried out if the prin-

cipal was unable to promulgate rules and enforce them. *DeKoevend v. Bd. of Educ.*, 653 P.2d 743 (Colo. App. 1982), rev'd on other grounds, 688 P.2d 219 (Colo. 1984).

**Principal has authority to supervise teachers.** Taking the steps necessary to supervise and insure the effectiveness of teachers is within the authority delegated to the principal by the school board and thus constitutes a legitimate exercise of his power. *Thompson v. Bd. of Educ.*, 668 P.2d 954 (Colo. App. 1983).

**22-32-127. Leases or installment purchases for periods exceeding one year.**

(1) (a) Whenever the term of an installment purchase agreement or a lease agreement

with an option to purchase, including but not limited to any sublease-purchase agreement entered into by a school district pursuant to section 22-43.7-110 (2) (c), under which a school district becomes entitled to the use of undeveloped or improved real property or equipment for a school site, building, or structure is greater than one year, the obligation to make payments under the agreement shall constitute an indebtedness of the district.

(b) Under any installment purchase agreement or under any lease or rental agreement, with or without the option to purchase, or similar agreement pursuant to which the subject real or personal property is used by the school district for school district purposes, title shall be considered to have passed to the school district at the time of execution of the agreement for purposes of determining liability for or exemption from property taxation.

(2) No board of education shall enter into an installment purchase agreement of the type which constitutes an indebtedness unless such agreement shall be first approved as provided in this section by a majority of the registered electors of the district voting at an election held pursuant to this section. The board of education may submit to the registered electors of the district the question of entering into such an agreement at any general election, regular biennial school election, or special election called for the purpose. The secretary of the board of education shall give notice of an election to be held pursuant to this section in essentially the same manner and for the same length of time as is required by law for a notice of election of school directors. Such notice shall contain, to the extent applicable, the information required for a notice of election of school directors and in addition shall contain a statement of the maximum term of the proposed agreement, the maximum and periodic amounts of payments for which the district would be obligated, and the purpose of the agreement.

(3) The manner and place of conducting elections held pursuant to this section, and all other election procedures relating thereto, shall be as provided by law for the approval of contracting a bonded indebtedness of the district.

(4) The principal amount of any indebtedness incurred by a school district by means of installment purchase or lease-purchase or sublease-purchase agreements having terms of more than one year shall be subject to the limitation imposed by law on the amount of bonded indebtedness that may be incurred by a school district.

(5) The question of entering into an agreement of the type which constitutes an indebtedness of the district beyond a term of one year may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this section; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of entering into such an agreement at more than two elections within any twelve-month period.

(6) The provisions of this section shall have no application to any installment purchase agreement or lease agreement with option to purchase, even though the term thereof may be greater than one year, where the school district's obligation to make payments under such installment purchase agreement or lease agreement with option to purchase is limited to its capital reserve fund, its general fund, or both and is expressly subject to the making of annual appropriations therefor in accordance with law.

(7) The provisions of this section shall have no application to any installment purchase agreement or lease agreement with an option to purchase in which such payments are made from the capital reserve fund following approval in an election as provided for in section 22-45-103 (1) (c).

**Source:** L. 73: p. 1275, § 2. C.R.S. 1963: § 123-30-28. L. 77: (1) amended, p. 1051, § 3, effective June 10. L. 83: (1) amended, p. 743, § 2, effective June 1; (1)(a) and (6) amended, p. 750, § 3, effective July 1. L. 85: (6) amended, p. 733, § 3, effective May 31. L. 87: (2) amended, p. 315, § 50, effective July 1. L. 2008: (1)(a) and (4) amended, p. 1062, § 2, effective May 22.

**Editor's note:** Subsection (1)(a) was amended in Senate Bill 83-384. Those amendments were superseded by the amendment of subsection (1) in Senate Bill 83-345.



**Cross references:** For procedure for contracting bonded indebtedness by a school district, see article 42 of this title.

**22-32-128. Use of school vehicles by residents of district.** At times to be specified by the board of education of each school district, school vehicles used for the transportation of pupils pursuant to the provisions of section 22-32-113 shall be available to groups of five or more residents of the district who are sixty-five years of age or older for use within or without the district. The board of education of each school district of the state shall adopt policies regarding the reasonable use of such vehicles by groups of persons with special consideration being given those residents who are sixty-five years of age or older. Such school vehicles shall be covered by an insurance policy similar to, with limits not less than, the insurance coverage which is in effect while said school vehicles are used for the transportation of pupils. To the extent that such policies provide for the reimbursement to the school district of all the expenses of the operation of such school vehicles as determined by the school district auditor, no such reimbursement shall constitute compensation, and it shall not subject the school district to the provisions of article 10 or 11 of title 40, C.R.S. The miles traveled and the costs expended under this article shall not be allowable for the computation of benefits accruing to a school district under the provisions of article 51 of this title.

**Source:** L. 73: p. 1282, § 1. C.R.S. 1963: § 123-30-29. L. 78: Entire section amended, p. 521, § 7, effective July 1. L. 2010: Entire section amended, (HB 10-1232), ch. 163, p. 570, § 7, effective April 28. L. 2011: Entire section amended, (HB 11-1303), ch. 264, p. 1161, § 48, effective August 10.

**22-32-129. Validation - effect - limitations. (Repealed)**

**Source:** L. 73: p. 1277, § 6. C.R.S. 1963: § 123-30-30. L. 2006: Entire section repealed, p. 607, § 25, effective August 7.

**22-32-130. Children's activity buses. (Repealed)**

**Source:** L. 93: Entire section added, p. 1456, § 1, effective June 6; entire section repealed, p. 1456, § 1, effective September 1.

**22-32-131. Voter approval of repayment of loans for capital improvements made to a growth district.** (1) The board of education of a growth district, as defined in section 22-2-125 (1) (b), at any regular biennial school election or special election, may submit to the eligible electors of the growth district:

(a) The question of whether the growth district may repay any loan made pursuant to section 22-2-125 over a period exceeding one budget year; or

(b) The question of whether the growth district may repay any loan made pursuant to article 15 of title 23, C.R.S., over a period exceeding one budget year.

(2) Any question submitted pursuant to subsection (1) of this section may be combined with a question submitted by the growth district pursuant to section 22-40-110 at the same election.

(3) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

**Source:** L. 2002: Entire section added, p. 1744, § 17, effective June 7.

**22-32-132. Diplomas - veterans.** (1) Upon the request of an honorably discharged veteran, a board of education of a school district may award a diploma to the honorably discharged veteran if he or she:

- (a) Served in the armed forces of the United States at any time during the period from:
    - (I) December 7, 1941, through December 31, 1946, a period that includes world war II;
    - (II) June 25, 1950, through January 31, 1955, a period that includes the Korean war; or
    - (III) August 5, 1964, through May 7, 1975, a period that includes the Vietnam war, and the period from February 28, 1961, through August 5, 1964, for persons serving in Vietnam;
  - (b) Left high school before graduating in order to serve in the armed forces of the United States;
  - (c) Has not received a high school diploma;
  - (d) Has attained the age of sixty years; and
  - (e) (I) At the time of making the request, resides within the school district; or
  - (II) At the time of leaving high school to serve in the armed forces of the United States, resided within the school district.
- (2) Notwithstanding any provision of subsection (1) of this section to the contrary, a board of education of a school district may award a diploma:
- (a) Posthumously to an honorably discharged veteran, upon the request of an immediate family member or legal guardian of the honorably discharged veteran; or
  - (b) Even though an honorably discharged veteran has already received a general educational development high school equivalency certificate.
- (3) A school district, in implementing the provisions of this section, may utilize a form for acquiring the information from a veteran described in subsection (1) of this section. The form may be prescribed by rule proposed by the Colorado board of veterans affairs and adopted by the adjutant general in accordance with section 28-5-703, C.R.S.

**Source: L. 2003:** Entire section added, p. 585, § 2, effective March 18.

**Cross references:** For the legislative declaration contained in the 2003 act enacting this section, see section 1 of chapter 39, Session Laws of Colorado 2003.

**22-32-133. American sign language.** (1) As used in this section, unless the context otherwise requires:

- (a) “American sign language” means the natural language recognized globally that is used by members of the deaf community and that is linguistically complete with unique rules for language structure and use, that include phonology, morphology, syntax, semantics, and discourse.
- (b) “School district” means any school district organized and existing pursuant to law, but does not include a junior college district.
- (c) Repealed.
- (2) A school district may offer one or more elective courses in American sign language.
- (3) A school district may elect to treat American sign language as a foreign language and may:
  - (a) Grant academic credit for completion of an American sign language course or demonstrated proficiency in American sign language on the same basis as the successful completion of a foreign language; and
  - (b) Count completion of an American sign language course or demonstrated proficiency in American sign language toward the fulfillment of any foreign language requirement for graduation.

**Source: L. 2004:** Entire section added, p. 255, § 2, effective August 4. **L. 2005:** (1)(c) repealed, p. 767, § 32, effective June 1. **L. 2006:** (2) amended, p. 607, § 26, effective August 7.

**22-32-134. Healthful alternatives - school vending machines - requirements. (Repealed)**

**Source: L. 2004:** Entire section added, p. 503, § 1, effective April 20. **L. 2008:** Entire section repealed, p. 641, § 2, effective August 5.



**Cross references:** For the legislative declaration contained in the 2008 act repealing this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-32-134.5. Healthy beverages policy required.** (1) On or before July 1, 2009, each school district board of education shall adopt and implement a policy that prohibits, except as described in subsection (2) of this section, the sale of beverages to students from any source, including but not limited to:

- (a) School cafeterias;
- (b) Vending machines;
- (c) School stores; and
- (d) Fund-raising activities conducted on school campuses.

(2) (a) On or before November 15, 2008, the state board of education shall promulgate rules describing beverages that school districts and schools may permit to be sold to students. Each beverage described by the rules shall satisfy minimum nutritional standards for beverages, which standards are science-based and established by a national organization that:

(I) Establishes and promotes minimum nutritional standards for beverages served to students in schools; and

(II) Has set forth a memorandum of understanding between various interested entities, including representatives of the beverage industry, which memorandum of understanding sets forth guidelines for policies concerning beverages that school districts and schools may permit to be sold to students.

(b) On or before November 15, 2008, the state board of education shall promulgate rules describing specific events occurring outside of the regular and extended school day, including but not limited to extracurricular competitions and performances, at which a school district or school may permit to be sold to students beverages other than the beverages described by the rules promulgated by the state board pursuant to paragraph (a) of this subsection (2).

(3) (a) The policy adopted by a school district pursuant to subsection (1) of this section shall apply to all beverages sold on school campuses during regular and extended school days.

(b) For the purposes of this subsection (3), “extended school day” means the regular hours of operation for a school plus any time spent by students after the regular hours of operation for any purpose, including but not limited to participation in extracurricular activities or childcare programs.

(4) The provisions of this section shall apply to contracts entered into or renewed by a school district on or after July 1, 2009.

**Source: L. 2008:** Entire section added, p. 641, § 3, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-32-135. Financial literacy curriculum.** (1) The general assembly hereby finds that:

(a) Life skills such as the ability to formulate a household budget, balance a checking account, read and understand the terms and conditions of a credit card, and otherwise manage personal finances are critical to a person’s success in today’s economy;

(b) In February and March of 2000, in a survey of high school seniors designed to test their knowledge of personal finance basics, the students answered only fifty-one and nine tenths percent of the questions correctly, receiving a failing grade;

(c) Many students graduate from high school without having learned crucial personal financial management skills, although many have already obtained their first credit cards;

(d) Recent studies of consumer finances by the federal reserve board show that, at the end of the third quarter of 1999, household debt in the United States totaled over six trillion three hundred billion dollars. Almost one trillion four hundred billion dollars of this debt

was consumer credit debt, while four trillion four hundred billion dollars consisted of mortgage debt.

(e) With the recent growth in consumer debt and the apparently low level of education and understanding with regard to personal finances, it is imperative that the public schools of the state provide students with a thorough, high-quality curriculum of financial literacy to enable students to understand and master personal finance skills, including, at a minimum, managing bank accounts, household budgeting, understanding and managing personal debt, and managing personal savings and investment.

(2) As used in this section, "financial literacy" means knowledge of personal finances that is sufficient to enable a person to manage savings, investment, and checking accounts, to design and maintain a household budget, to manage personal debt, to understand consumer credit and finance, to manage personal credit options, and to understand and select among short-term and long-term investment options.

(3) Each school district board of education is strongly encouraged to adopt as part of its district curriculum courses pertaining to financial literacy to be taught in grade-appropriate courses at the elementary, middle, junior high, and high school grade levels. When selecting mathematics and economics textbooks, each school district is strongly encouraged to select those texts that include substantive provisions on personal finance, including personal budgeting, credit, debt management, and similar personal finance topics.

(4) Each school district board of education is further encouraged to adopt successful completion of a course in financial literacy as a graduation requirement.

**Source: L. 2004:** Entire section added, p. 1774, § 2, effective June 4.

**22-32-136. Children's nutrition - healthful alternatives - information - facilities - local wellness policy - competitive foods.** (1) The general assembly hereby recognizes that:

(a) Overweight children and youth and obesity among children and youth are major public health threats, and being overweight is now the most common medical condition of childhood. An estimated nine million young people in the United States are considered overweight. In Colorado, obesity in the adult population has more than doubled since 1991. Childhood obesity is related to the development of a number of preventable chronic childhood diseases such as type 2 diabetes and hypertension, and overweight children are likely to become overweight adults with increased risk of developing high cholesterol, heart disease, stroke, osteoporosis, gallbladder disease, arthritis, and endometrial, breast, prostate, and colon cancers.

(b) Schools can play a major role in reducing the number of overweight and obese children and youth. Schools are places where students can gain the knowledge, motivation, and skills needed for lifelong physical activity and lifelong healthy eating habits and are also places for students to practice healthy eating habits.

(c) Meeting a student's basic nutritional and fitness needs will increase a student's cognitive energy to learn and achieve, and, as a result, the overall educational process will be more effective.

(2) As used in this section, unless the context otherwise requires:

(a) "Competitive food" means any food or beverage available to students that is separate from the school district's nonprofit, federally reimbursed food service program and is provided by a school-approved organization or a school-approved outside vendor.

(b) "School day" means one hour prior to the start of the first class period to one half hour after the end of the last class period; except that, for schools not offering school breakfast, "school day" means one half hour before the first class period to one half hour after the end of the last class period.

(3) On or before July 1, 2006, each school district board of education is encouraged to adopt policies ensuring that:

(a) Every student has access to healthful food choices in appropriate portion sizes throughout the school day. At a minimum, this includes the provision of:

(1) Healthful meals in the school cafeteria made available to students with an adequate time to eat;



(II) Healthful beverages sold to students on school campuses, pursuant to section 22-32-134.5; and

(III) Healthful items for fundraisers, classroom parties, and rewards in the schools.

(b) (I) Every student and his or her parent or legal guardian has access to information concerning the nutritional content of:

(A) Food and beverages sold by or available from the school's food service department at breakfast and lunch and throughout the school day; and

(B) Competitive food sold or available anywhere on school district property on a recurring basis during the school day.

(II) The information described in subparagraph (I) of this paragraph (b) may be made available by placing the information on the school district web site or printing the information on the menus sent home with students or by posting the information in a visible place in each school building.

(c) Every student has access to fresh fruits and vegetables at appropriate times during the school day. Whenever practical, school districts shall work to acquire fresh produce from Colorado sources.

(d) Every student has access to age-appropriate and culturally sensitive instruction designed to teach lifelong healthy eating habits and a healthy level of physical activity.

(e) Every student has access to a school facility with a sufficient number of functioning water fountains in accordance with local building codes, or other means which provide him or her with sufficient water.

(f) Every student has access to age-appropriate daily physical activity.

(4) Each school district board of education is encouraged to establish rules specifying the time and place at which competitive foods may be sold on school property in order to encourage the selection of healthful food choices by students.

(5) On or before July 1, 2006, each school district board of education is encouraged to adopt a local wellness policy as provided for in the federal "Child Nutrition and WIC Reauthorization Act of 2004", Public Law 108-265, which provides, in part, that, not later than the first day of the school year beginning after June 30, 2006, each school district participating in a program authorized by the Richard B. Russell national school lunch act, 42 U.S.C. 1751 et seq., or the children's nutrition act of 1966, 42 U.S.C. 1771 et seq., shall establish a local school wellness policy for schools under the local educational agency that, at a minimum:

(a) Includes goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the school district determines is appropriate;

(b) Includes nutrition guidelines selected by the local school district for all foods available on each school campus during the school day with objectives of promoting student health and reducing childhood obesity and overweight and type 2 diabetes;

(c) Provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the secretary of agriculture pursuant to subsections (a) and (b) of section 10 of the Child Nutrition Act, 42 U.S.C. sec. 1779, and sections 9 (f) (1) and 17 (a) of the Richard B. Russell national school lunch act, 42 U.S.C. secs. 1758 (f) (1) and 1766 (a), as those regulations and guidance apply to schools;

(d) Establishes a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the school district or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and

(e) Involves parents, representative of the school food authority, the school board and school administrators, and the public, in the development of the school wellness policy.

(5.5) On or before October 1, 2008, each school district board of education is encouraged to expand its local wellness policy adopted pursuant to subsection (5) of this section to include goals for:

(a) Increasing the availability of courses in physical education, including but not limited to, for a school district that enrolls more than one thousand five hundred students, establishing the goal of ensuring that all physical education classes offered by the school

district are taught by persons who are licensed and endorsed pursuant to article 60.5 of this title to teach physical education;

- (b) Increasing classes in health education;
- (c) Providing health services;
- (d) Providing nutrition services;
- (e) Providing increased access to mental health counseling and services;
- (f) Developing and maintaining a healthy school environment in each of the schools of the school district;
- (g) Increasing the level of family and community involvement in developing and maintaining an emphasis on healthy lifestyles and choices to enable students to retain healthy behaviors throughout their lives.

(6) Nothing in this section shall be construed to prohibit the sale or distribution of any food or beverage item through periodic fundraisers by a student, teacher, or school group when the item is for sale after completion of the school day.

**Source: L. 2005:** Entire section added, p. 225, § 1, effective August 8. **L. 2008:** (3)(a)(II) amended, p. 642, § 4, effective August 5; (5.5) added, p. 671, § 1, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3)(a)(II), see section 1 of chapter 185, Session Laws of Colorado 2008.

### **22-32-136.3. Children's nutrition - no trans fats in school foods - definitions - rules.**

(1) As used in this section, unless the context otherwise requires:

(a) "Extended school day" means the school day, plus any additional time that a student spends on school grounds before or after the school day for the purpose of participating in a school-sanctioned extracurricular activity or child care program.

(b) "Industrially produced trans fat" means vegetable shortening, margarine, or any type of partially hydrogenated vegetable oil that contains more than zero grams of trans fat per serving as labeled.

(c) "Public school" means a school of a school district, a district charter school, or a board of cooperative services.

(d) "School day" has the same meaning as set forth in section 22-32-136.

(2) On and after September 1, 2013, a public school shall not:

(a) Make available to a student any food or beverage that contains any amount of industrially produced trans fat; or

(b) Use a food that contains any industrially produced trans fat in the preparation of a food item or beverage that is intended for consumption by a student.

(3) The prohibition described in subsection (2) of this section applies to all food and beverages made available to a student on school grounds during each school day and extended school day, including but not limited to a food or beverage item made available to a student in a school cafeteria, school store, vending machine, or other food service entity existing upon school grounds.

(4) The prohibition described in subsection (2) of this section does not apply to:

(a) Any food or beverage that is made available to a student as part of a meal program of the United States department of agriculture;

(b) Any food or beverage that is made available to a student as part of a fundraising effort conducted by one or more students, teachers, or parents; or

(c) Any food or beverage that is donated to the school to be given to a student for consumption off of school premises and not during the school day.

(5) The state board of education may promulgate such rules as are necessary for the administration of this section.

**Source: L. 2012:** Entire section added, (SB 12-068), ch. 256, p. 1302, § 2, effective August 8.



**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 256, Session Laws of Colorado 2012.

**22-32-136.5. Children's wellness - physical activity requirement - legislative declaration.** (1) (a) The general assembly hereby finds that:

(I) Healthy children are more likely to be engaged learners, they do better in school, they have improved attendance, and they are less likely to have behavioral problems inside and outside of the classroom;

(II) Many studies have documented the link between the mind and body and the effect of movement on cognition and stimulated blood flow and oxygen to a child's brain;

(III) Studies also show that physical activity improves students' ability to focus and decreases the symptoms of attention deficit disorder and related conditions;

(IV) Children who engage in physical activity as part of the learning environment are healthier and process information better;

(V) The growing trend of childhood obesity is also beginning to affect the country's military preparedness. Recent reports show that, nationally, approximately one-third of all potential military recruits are ineligible to join because they are overweight and out of shape;

(VI) School is the only place that many children are exposed to physical activity;

(VII) According to the 2009 child health survey conducted by the department of public health and environment, one in four Colorado children are overweight or obese, and only fifty-three and five tenths percent of children meet daily physical activity recommendations; and

(VIII) Between 2003 and 2007, Colorado's child obesity national ranking dropped from third leanest in the country to twenty-third, and the number of obese children in Colorado ten to seventeen years of age increased from forty-eight thousand to seventy-two thousand.

(b) Therefore, the general assembly declares that, by supporting physical activity in public schools, Colorado will ensure that all children have access to activities that build their bodies and their brains and support their abilities to think, react, create, and learn.

(2) For purposes of this section, unless the context otherwise requires, "physical activity" may include, but need not be limited to:

(a) Exercise programs;

(b) Fitness breaks;

(c) Recess;

(d) Field trips that include physical activity;

(e) Classroom activities that include physical activity; and

(f) Physical education classes.

(3) (a) Each school district board of education shall adopt a physical activity policy that incorporates into the schedule of each student attending an elementary school the opportunity for the student to engage in:

(I) A minimum of six hundred minutes of physical activity per month if the classes at the school meet five days per week and the student attends school for a full day;

(II) A minimum of three hundred minutes of physical activity per month if the classes at the school meet five days per week and the student attends school for a half day;

(III) A minimum of thirty minutes of physical activity per day if the classes at the school meet fewer than five days per week and the student attends school for a full day; and

(IV) A minimum of fifteen minutes of physical activity per day if the classes at the school meet fewer than five days per week and the student attends school for a half day.

(b) The physical activity policy may include an exception for any month that includes a planned or unplanned full-day or half-day school closure.

(c) Each school district board of education shall implement the physical activity policy beginning with the 2011-12 school year.

(d) Each school district board of education may require the person or committee in each school designated to ensure that the school complies with the local wellness policy, as described in section 22-32-136, or the school district accountability committee and school accountability committees created pursuant to article 11 of this title to review and advise the

school district or an individual school regarding the school district's or the individual school's physical activity policy and compliance with this section.

(e) The expectation that a school district adopt a policy concerning physical activity pursuant to this section is not intended to dictate instruction in the classroom.

(f) A school that, prior to January 1, 2011, provides more than the minimum minutes specified in paragraph (a) of this subsection (3) shall not decrease the amount of physical activity as a result of the policy specified in paragraph (a) of this subsection (3); except that the school may decrease its required minutes of physical activity in response to budgetary constraints, so long as the school complies with the requirements specified in paragraph (a) of this subsection (3).

(g) A school shall not substitute noninstructional physical activity for standards-based physical education instruction.

**Source: L. 2011:** Entire section added, (HB 11-1069), ch. 117, p. 364, § 1, effective April 20.

**22-32-137. Community service and service-learning.** Each school district shall consider and, if the school district board of education deems it appropriate, adopt a policy to encourage students to engage in community service or service-learning and to recognize students' contributions to their communities through community service or service-learning. Pursuant to the policy, a student who successfully meets the community service or service-learning program goals, as specified in the policy, may earn recognition in the manner described in the policy. The policy should specify the manner in which recognition of service may be reflected on a student's diploma or transcript as an indication of the student's commitment to service within the community.

**Source: L. 2006:** Entire section added, p. 998, § 2, effective August 7.

**Cross references:** For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 217, Session Laws of Colorado 2006.

**22-32-138. Out-of-home placement students - transfer procedures - absences - exemptions.** (1) As used in this section, unless the context otherwise requires:

(a) "Child placement agency" shall have the same meaning as provided in section 19-1-103 (21), C.R.S.

(b) "County department" shall have the same meaning as provided in section 19-1-103 (32), C.R.S.

(c) "School" means a public school of a school district, a school or educational program operated by a board of cooperative services pursuant to article 5 of this title, an institute charter school authorized pursuant to part 5 of article 30.5 of this title, a state-licensed day treatment facility, or an approved facility school as defined in section 22-2-402 (1).

(d) "State department" means the department of human services created and existing pursuant to section 24-1-120, C.R.S.

(e) "Student in out-of-home placement" means a child or youth who is in foster care and receiving educational services through a state-licensed day treatment facility or a child or youth who is in placement out of the home, as that term is defined in section 19-1-103 (85), C.R.S., including, but not limited to, any child or youth who is in placement outside the home as a result of an adjudication pursuant to article 2 of title 19, C.R.S. "Student in out-of-home placement" shall also include a child or youth who transfers enrollment as a result of being returned to his or her home at the conclusion of out-of-home placement.

(2) (a) Each school district and the state charter school institute, created pursuant to section 22-30.5-503, shall designate an employee of the school district or the institute to act as the child welfare education liaison for the district or for state charter schools. In lieu of designating an employee, a school district or the state charter school institute may contract with an individual to act as the child welfare education liaison. Each school district and the



state charter school institute shall report to the department of education by August 15, 2010, and by August 15 each year thereafter, the name and contact information of the child welfare education liaison. The department of education shall be responsible for posting that information on the department of education's web site and providing the information to the department of human services. The child welfare education liaison shall be responsible for working with child placement agencies, county departments, and the state department to facilitate the prompt and appropriate placement, transfer, and enrollment in school of students in out-of-home placement within the school district or who are enrolled or enrolling in institute charter schools. The specific duties of the child welfare education liaison shall include, but need not be limited to:

(I) Working with social workers from county departments, juvenile probation officers, and foster care parents to ensure the prompt school enrollment of students in out-of-home placement and the prompt transfer of their education information and records when students are required to change school enrollment due to changes in placement;

(II) Ensuring that the education information and records of a student in out-of-home placement are delivered to the student's new school within five school days after receiving a request for the transfer of the student's education information and records from a county department as required in subsection (3) of this section;

(III) Upon receiving the required notification and invitation, participating in a transition planning meeting regarding the enrollment in a public school of a student in an out-of-home placement pursuant to section 22-2-139, or having his or her designee participating in said meeting;

(IV) Participating in any interagency collaboration teams or threat-assessment teams centered on students, which teams the school district may develop or on which teams the school district may be invited to participate; and

(V) Providing to the department of education, the department of human services, and the education committees of the house of representatives and the senate, or any successor committees, the information required pursuant to sections 22-2-139 and 26-1-138, C.R.S.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), a board of cooperative services created pursuant to article 5 of this title may designate an employee of the board to act as the child welfare education liaison for the school districts that are members of the board of cooperative services. A child welfare education liaison employed by a board of cooperative services shall have the duties specified in this subsection (2) and shall perform them on behalf of the school districts that are members of the board of cooperative services.

(3) (a) If a student in out-of-home placement is enrolled in one school and transfers enrollment to another school either in the same school district or in another school district or to another type of school, the sending school district or school shall transfer the student's education information and records to the receiving school within five school days after receiving a transfer request from the county department that has legal custody of the student.

(b) Notwithstanding any provision of law to the contrary, without having to obtain a court order, the county department that has legal custody of a student in out-of-home placement may request that the school district or school in which the student was enrolled release the student's education information and records to an employee of the county department for the sole purpose of transferring the education information and records to the student's new school. The school district or school may comply with the requirements of paragraph (a) of this subsection (3) by complying with the county department's request within five school days after receiving the request.

(c) A school district or school shall not delay the transfer of the education information and records of a student in out-of-home placement for any reason, including but not limited to the existence of any unpaid fines or fees that the student may have outstanding at the school from which the student is transferring.

(d) If a school district or school receives a transfer request pursuant to paragraph (a) of this subsection (3) or a request for release of records pursuant to paragraph (b) of this subsection (3) and the request involves a student who is receiving special education services pursuant to an individualized education program, the school district or school shall notify

the special education director for the school district or school of the request as soon as possible following receipt of the request.

(4) (a) Notwithstanding any provision of law, other than paragraph (b) of this subsection (4), to the contrary, if a student who is in out-of-home placement is either newly placed within a school district or school or required to change schools due to a change in placement, the school district or school shall enroll the student in school within five school days after receiving the student's education information and records, regardless of whether:

(I) The school district or school has received the student's certificate of immunization;

(II) The student can comply with any requirements pertaining to the use of school uniforms or other clothing restrictions; or

(III) The student can comply with any other preenrollment restrictions or requirements imposed by the school district or school.

(b) The provisions of paragraph (a) of this subsection (4) shall not be construed to prohibit a school district or school from denying enrollment to a student in out-of-home placement based on the circumstances specified in section 22-33-106 (2) and (3); except that the school district or school:

(I) May deny enrollment based on the student having been expelled from a school district in the preceding twelve months as provided in section 22-33-106 (3) (c) only if the student was expelled for having drugs or weapons at school or for being a danger to self or others; and

(II) May not deny enrollment based on failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S., as provided in section 22-33-106 (3) (e).

(c) If a school district or school enrolls a student in out-of-home placement without receiving the student's certificate of immunization, the school district or school shall notify the student's legal guardian that, unless the school district or school receives the student's certificate of immunization or a written authorization for administration of immunizations within fourteen days after the student enrolls, the school district or school shall suspend the student until such time as the school district or school receives the certificate of immunization or the authorization.

(5) When a student in out-of-home placement transfers from one school to another school, the sending school shall certify to the receiving school or school district the course work that the student has fully or partially completed while enrolled at the school. The receiving school or school district shall accept the student's certified course work and the course work certified by previous schools in which the student was enrolled, as reflected in the student's records, as if it had been completed at the receiving school. The receiving school or school district shall apply all of the student's certified course work toward completion of the student's requirements for graduating from the grade level in which the student is enrolled at the receiving school or school district or for graduation from the receiving school or school district if the student is enrolled in twelfth grade. The receiving school or school district may award elective credit for any portion of the student's certified course work that is not aligned with the curriculum of the receiving school or school district.

(6) A student in out-of-home placement shall receive an excused absence from the school district or school in which the student is enrolled for any time the student is out of school due to a required court appearance or participation in court-ordered activities, including but not limited to family visitation or therapy. The social worker who is assigned to the student shall verify to the school district or school each instance in which the student is out of school for a court appearance or for participation in a court-ordered activity.

(7) A school district or school in which a student in out-of-home placement is enrolled shall waive all fees that would otherwise be assessed against the student, including but not limited to any general fees, fees for books, fees for lab work, fees for participation in in-school or extracurricular activities, and fees for before-school or after-school programs. The school district or school shall not limit the opportunity of a student in out-of-home placement to participate in in-school and extracurricular activities and before-school and after-school programs due to waiver of the participation fees.

**Source:** L. 2008: Entire section added, p. 468, § 2, effective April 17. L. 2009: (1)(c) amended, (SB 09-292), ch. 369, p. 1963, § 62, effective August 5. L. 2010: (2)(a) amended, (HB 10-1274), ch. 271, p. 1248, § 3, effective May 25.



**Cross references:** For the legislative declaration contained in the 2008 act adding this section, see section 1 of chapter 147, Session Laws of Colorado 2008. For the legislative declaration contained in the 2010 act amending subsection (2)(a), see section 1 of chapter 271, Session Laws of Colorado 2010.

**22-32-139. Food allergies and anaphylaxis policy required.** On or before July 1, 2010, each school district board of education shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in the public schools of the school district. The policy shall include, at a minimum, measures that satisfy the rules promulgated by the state board of education pursuant to section 22-2-135.

**Source: L. 2009:** Entire section added, (SB 09-226), ch. 245, p. 1106, § 5, effective August 5.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-32-140. Standardized immunization policy required.** On or before July 1, 2011, each school district board of education shall annually provide to the parent or legal guardian of each student enrolled in a school of the school district the standardized immunization document developed and updated by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For purposes of this section, solely posting a copy of the standardized immunization document on a web site or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, each school district is encouraged to post a copy of the standardized immunization document on its web site.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 192, § 3, effective August 11; entire section amended, (HB 10-1422), ch. 419, p. 2126, § 190, effective August 11.

**22-32-141. Student awaiting trial as adult - educational services.** (1) As used in this section, unless the context otherwise requires:

(a) “Federal IDEA act” means the federal “Individuals with Disabilities Education Act”, 20 U.S.C. 1400 et seq., and the federal regulations for implementing said act regarding the provision of special education and related services to students with disabilities.

(b) “Juvenile” means a person:

(I) Against whom criminal charges are directly filed in district court pursuant to section 19-2-517, C.R.S., or for whom criminal charges are transferred to district court pursuant to section 19-2-518, C.R.S.;

(II) Who is under eighteen years of age at the time the offense is committed; and

(III) Who is less than twenty-one years of age.

(c) “Pupil enrollment count day” has the same meaning as set forth in section 22-54-103 (10.5).

(2) (a) Except as otherwise provided in paragraphs (c) to (g) of this subsection (2), if a juvenile is held in a jail or other facility for the detention of adult offenders pending criminal proceedings as an adult, the school district in which the jail or facility is located shall provide educational services for the juvenile upon request of the official in charge of the jail or facility, or his or her designee, pursuant to section 19-2-508 (4) (b.5), C.R.S. A school district may provide educational services directly using one or more of its employees or may ensure that educational services are provided through a board of cooperative services, an administrative unit, or otherwise through contract with a person or entity.

(b) In addition to meeting the requirements specified in this section, for each juvenile in a jail or facility who is a student with disabilities, the school district shall comply with any applicable provisions of the federal IDEA act.

(c) A school district is not required to provide educational services pursuant to this section to a juvenile if the juvenile has already graduated from high school or if the juvenile received a general education development certificate, unless otherwise required by the federal IDEA act.

(d) A school district is not required to provide educational services pursuant to this section to a juvenile for more than four hours per week or during periods of the school year when students enrolled in the school district are not required to attend school, except as may otherwise be required by the federal IDEA act.

(e) If a school district or the official in charge of the jail or facility determines as provided in section 19-2-508 (4) (b.5) (II), C.R.S., that an appropriate and safe environment for school district employees or contractors is not available in which to provide educational services to a specific juvenile, the school district is exempt from the requirement of providing educational services to the juvenile until such time as both the school district and the official in charge of the jail or facility determine that an appropriate and safe environment for school district employees or contractors is available. If the school district will not be providing educational services to a juvenile because of the lack of an appropriate and safe environment for school district employees or contractors, the official in charge of the jail or facility shall notify the juvenile, his or her parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

(f) If a juvenile is violent toward or physically injures the school district employee or contractor who is providing educational services to the juvenile pursuant to this section, the school district shall not require the employee or contractor to continue providing educational services to the juvenile, and the school district may choose to cease providing educational services to the juvenile, unless otherwise required by the federal IDEA act. If a school district ceases to provide educational services to a juvenile pursuant to this paragraph (f), the school district shall notify the official in charge of the jail or facility, and the official shall notify the juvenile, the juvenile's parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

(g) If a juvenile refuses to accept or participate in educational services, including special education services, a school district shall not be required to provide educational services pursuant to this section. The official in charge of the jail or facility in which the juvenile is held shall offer, at least weekly, to arrange educational services for a juvenile who previously refused educational services. The school district shall be required to provide educational services pursuant to this section upon acceptance by the juvenile.

(3) (a) Each school district in which a jail or other facility for the detention of adult offenders is located shall designate a school district employee to act as the contact person for the jail or facility, which employee may be the child welfare education liaison designated pursuant to section 22-32-138 (2). The school district shall provide to the jail or facility the employee's name and contact information.

(b) Following a request for educational services pursuant to subsection (2) of this section, the designated employee shall determine whether the juvenile was held in a juvenile detention facility prior to transfer to the jail or facility and, if so, shall contact the juvenile detention facility to request the transfer of any educational or other information the juvenile facility may have concerning the juvenile. The designated employee shall ensure that the juvenile receives educational services pursuant to this section so long as the juvenile is held in the jail or facility, unless the designated employee determines that the juvenile meets the conditions specified in paragraph (c) of subsection (2) of this section, or the school district is exempt as provided in paragraph (e) or (f) of subsection (2) of this section, or the juvenile refuses services as provided in paragraph (g) of subsection (2) of this section.

(4) (a) In any budget year in which a school district is providing educational services to a juvenile pursuant to this section on the pupil enrollment count day of said budget year, the school district may include the juvenile in its pupil enrollment, as defined in section 22-54-103 (10), for purposes of determining the school district's total program funding under the "Public School Finance Act of 1994", article 54 of this title.

(b) If the school district begins providing educational services pursuant to this section after the pupil enrollment count day, the school district may seek reimbursement for the costs incurred pursuant to this section from the school district or charter school that



included said juvenile in its pupil enrollment for the applicable budget year. Any amount received as reimbursement may not exceed the reimbursing school district's or charter school's per pupil revenue for the applicable budget year, prorated for the period of time that the receiving school district provides educational services pursuant to this section.

(c) If a juvenile who receives educational services pursuant to this section was not included in the pupil enrollment for the state for a budget year in which a school district provides educational services for the juvenile, the school district may seek reimbursement from the department of education for the costs incurred pursuant to this section. Any amount received as reimbursement may not exceed the state average per pupil revenue for the applicable budget year, prorated for the period that the receiving school district provides educational services pursuant to this section. The department of education shall pay reimbursement pursuant to this paragraph (c) from moneys appropriated to the department for said purpose.

(d) (I) In addition to any moneys received pursuant to paragraph (a), (b), or (c) of this subsection (4), a school district that provides educational services pursuant to this section shall receive from the department of education an amount equal to the daily rate established pursuant to section 22-54-129 for educational services provided by approved facility schools, multiplied by the number of days, excluding Saturdays and Sundays, that the juvenile is held in a jail or facility, so long as the juvenile is receiving at least four hours of educational services per week.

(II) On or before the fifteenth day of each month in which a juvenile is held in a jail or facility, the official in charge of the jail or facility in which a juvenile is held, or his or her designee, shall report to the department of education in a manner to be determined by the department, the actual number of juveniles who received educational services at the jail or facility during the prior calendar month to whom the school district provided educational services at the jail or facility. The department of education may accept amended monthly reports from the jail or facility prior to making the distribution of funding for the applicable month pursuant to subparagraph (III) of this paragraph (d).

(III) On or before the fifteenth day of the month following the month in which a jail or facility reported the number of juveniles who received educational services at the jail or facility, the department of education shall pay the school district that provided the educational services the appropriate amount based on the daily rate established for approved facility schools pursuant to section 22-54-129 and the number of juveniles who received educational services.

(IV) In each applicable budget year, the general assembly shall appropriate to the department of education the amount required to reimburse school districts pursuant to this paragraph (d) for educational services provided pursuant to this section. In any year in which the amount appropriated is insufficient to fully reimburse school districts pursuant to this section, the department of education may prorate the payments made pursuant to this paragraph (d).

(V) Notwithstanding any provision of this paragraph (d) to the contrary, a school district shall not receive reimbursement pursuant to this paragraph (d) for any period during which the school district was not providing educational services due to the circumstances described in any of paragraphs (c) to (g) of subsection (2) of this section. The official in charge of the jail or facility, or his or her designee, shall note any such period in the report submitted to the department of education pursuant to subparagraph (II) of this paragraph (d), and the department shall reduce the amount of reimbursement to the school district accordingly.

(e) In addition to any moneys received pursuant to paragraph (a), (b), (c), or (d) of this subsection (4), a school district or administrative unit that provides special education services pursuant to this section to a juvenile who has an individualized education program pursuant to section 22-20-108 may seek excess costs tuition from the juvenile's administrative unit of residence as provided in section 22-20-109.

**Source: L. 2010:** Entire section added, (SB 10-054), ch. 265, p. 1208, § 1, effective May 25. **L. 2012:** (4)(a) and (4)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 152, § 12, effective March 22.

**22-32-142. Parent involvement - policy - communications - incentives.** (1) Each school district board of education is encouraged to adopt a district policy for increasing and supporting parent involvement in the public schools of the school district. In adopting the policy, the board of education may take into account, but need not be limited to, the best practices and strategies identified pursuant to section 22-7-304 by the Colorado state advisory council for parent involvement in education and the national standards for family-school partnerships, as defined in section 22-7-302 (5). The board of education is encouraged to work with the parent members of the district accountability committee in creating, adopting, and implementing the policy.

(2) If the state board of education, pursuant to section 22-11-210, determines that a school of the school district is required to adopt and implement a school improvement plan as described in section 22-11-404, a school priority improvement plan as described in section 22-11-405, or a school turnaround plan as described in section 22-11-406, the school district, within thirty days after receiving the initial notice of the determination or, if the determination is appealed, the final notice of the determination, shall notify the parents of the students enrolled in the school of the required plan and the issues identified by the department of education as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the date, time, and location of a public hearing held by the school principal or the district board of education, whichever is responsible for adopting the plan, to review the required plan prior to final adoption. At the public hearing, the school principal or the district board of education shall also review the school's progress in implementing its plan for the preceding year and in improving its performance. The date of the public hearing shall be at least thirty days after the date on which the school district provides the written notice.

(3) Each school district board of education may solicit and accept public or private gifts, grants, or donations to implement all or a portion of the parent involvement programs implemented under a policy adopted pursuant to this section.

**Source: L. 2011:** Entire section added, (HB 11-1126), ch. 118, p. 368, § 1, effective August 10.

**22-32-143. Local fiscal impact summaries.** (1) If a bill is introduced before the general assembly that imposes upon a school district, school district board of education, or board of cooperative services any new mandate or increase in the level of service for an existing mandate beyond the existing level of service required by law, other than for the repurposing of existing time or resources, each school district, school district board of education, or board of cooperative services that is affected by the new mandate or increase shall have seven days after the date of the bill's introduction to prepare and submit to the director of research of the legislative council of the general assembly, or his or her designee, a brief summary of the fiscal impact of the new mandate or increase upon the budget of the school district or school district board of education.

(2) If the director of research of the legislative council of the general assembly, or his or her designee, prepares an analysis of the fiscal impact of an introduced bill that imposes upon a school district, school district board of education, or board of cooperative services a new mandate or increase in the level of service for an existing state mandate beyond the existing level of service required by law, other than for the repurposing of existing time or resources, and a school district, school district board of education, or board of cooperative services that will be affected by the bill submits to the director of research of the legislative council of the general assembly, or his or her designee, a brief summary of the fiscal impact of the new mandate or increase upon the budget of the school district, school district board of education, or board of cooperative services, then the director of research of the legislative council, or his or her designee, shall include the brief summary with his or her analysis.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1472, § 1, effective August 10.



**22-32-144. Restorative justice practices - legislative declaration.** (1) The general assembly hereby finds that:

(a) Conflicts and offenses arising during the school day interrupt learning, threaten school safety, and often lead to suspensions, expulsions, and an increase in the likelihood of a student dropping out of school;

(b) Students who drop out of high school face diminished job opportunities, lower lifetime earnings, and increased unemployment and more often require public assistance. They are more likely to participate in criminal activity, resulting in higher incarceration rates, and they face much greater challenges to becoming productive, contributing members of their communities.

(c) School conflicts can result in offenses that violate school rules and local laws and damage relationships among members of the school and surrounding community;

(d) Restorative justice, which requires the offender to accept responsibility and accountability for his or her actions, teaches conflict resolution, repairs the harm from the offense, reduces classroom disruptions, suspensions, expulsions, and consequent dropouts, promotes school safety, and enables victims, offenders, and community members to rebuild the community and restore relationships; and

(e) The general assembly has a vital interest in reducing classroom disruptions, suspensions, expulsions, and dropout rates and in assisting victims, reducing referrals to the justice system, and building safer, more cohesive school communities to promote learning.

(2) (a) Therefore, the general assembly supports and encourages the use of restorative justice as a school's first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, harassment and internet harassment, and attendance issues.

(b) The general assembly encourages each school district to implement training and education in the principles and practices of restorative justice to ensure that capable personnel and resources are available to successfully facilitate all steps of the restorative justice process.

(3) For purposes of this section, "restorative justice" means practices that emphasize repairing the harm to the victim and the school community caused by a student's misconduct. Restorative justice practices may include victim-initiated victim-offender conferences attended voluntarily by the victim, a victim advocate, the offender, school members, and supporters of the victim and the offender, which program provides an opportunity for the offender to accept responsibility for the harm caused to those affected by the act and to participate in setting consequences to repair the harm. Consequences recommended by the participants may include, but need not be limited to, apologies, community service, restitution, restoration, and counseling. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants.

(4) Each school district is encouraged to develop and utilize restorative justice practices that are part of the disciplinary program of each school in the district.

**Source: L. 2011:** Entire section added, (HB 11-1032), ch. 296, p. 1407, § 17, effective August 10.

**22-32-145. Native American language and culture instruction - general credit.** A school district board of education may adopt a policy to grant general education or world language credit for the successful completion of native American language course work for languages of federally recognized tribes. A person instructing a native American language course shall meet the requirements set forth in section 22-60.5-111 (15).

**Source: L. 2012:** Entire section added, (SB 12-057), ch. 120, p. 409, § 2, effective August 8.

**22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements.** (1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

(3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.

(4) Commencing August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 738, § 23, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act adding this section, see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council’s web site.

**ARTICLE 32.5**

**Innovation Schools and Innovation School Zones  
Within School Districts**

22-32.5-101.	Short title.	22-32.5-107.	cial support.
22-32.5-102.	Legislative declaration.		District of innovation - designation.
22-32.5-103.	Definitions.		
22-32.5-104.	Innovation plans - submission - contents.	22-32.5-108.	District of innovation - waiver of statutory and regulatory requirements.
22-32.5-105.	Suggested innovations.		
22-32.5-106.	Innovation planning - finan-	22-32.5-109.	District of innovation - col-



	lective bargaining agree- ments.		and innovation school zones.
22-32.5-110.	District of innovation - re- view of innovation schools	22-32.5-111.	Reporting.

**22-32.5-101. Short title.** This article shall be known and may be cited as the “Innovation Schools Act of 2008”.

**Source: L. 2008:** Entire article added, p. 1420, § 1, effective May 28.

**22-32.5-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The constitutional provisions regarding the public education system direct the general assembly to establish a thorough and uniform statewide system of public education, but they also recognize the importance of preserving local flexibility by granting to each school district board of education the control of instruction in the schools of the school district;

(b) The constitution’s requirement that each school district board of education is responsible for controlling the instruction in its schools is based on the belief that the delivery of educational services must be tailored to the specific population of students they are intended to serve and that the parents of those students should have great opportunity for input regarding the educational services their children receive;

(c) In tailoring the delivery of educational services, it is also important that the persons delivering those services, the principal of the public school and the faculty employed at that school, have the maximum degree of flexibility possible to determine the most effective and efficient manner in which to meet their students’ needs;

(d) To further the goals of high-quality public education throughout the state, therefore, each school district board of education should have the authority to grant public schools of the school district the maximum degree of flexibility possible to meet the needs of individual students and the communities in which they live; and

(e) While the ultimate responsibility for controlling the instruction in public schools continues to lie with the school district board of education of each public school, each school district board of education is strongly encouraged to delegate to each public school a high degree of autonomy in implementing curriculum, making personnel decisions, organizing the school day, determining the most effective use of resources, and generally organizing the delivery of high-quality educational services, thereby empowering each public school to tailor its services most effectively and efficiently to meet the needs of the population of students it serves.

(2) The general assembly therefore finds that it is in the best interests of the people of Colorado to enact the “Innovation Schools Act of 2008” to achieve the following purposes:

(a) To grant to Colorado’s school districts and public schools greater ability to meet the educational needs of a diverse and constantly changing student population;

(b) To encourage intentionally diverse approaches to learning and education within individual school districts;

(c) To improve educational performance through greater individual school autonomy and managerial flexibility;

(d) To encourage school districts, where appropriate, to create and manage a portfolio of schools that meet a variety of education needs, including identifying elementary, middle or junior high, and high schools to collectively operate as a vertically integrated innovation zone of schools;

(e) To encourage innovation in education by providing local school communities and principals with greater control over levels of staffing, personnel selection and evaluation, scheduling, and educational programming with the goal of achieving improved student achievement;

(f) To encourage school districts and public schools to find new ways to allocate resources, including through implementation of specialized school budgets, for the benefit of the students they serve; and

(g) To hold public schools that receive greater autonomy under this article accountable for student academic achievement, as measured by the Colorado student assessment program, other more specifically tailored accountability measures, and the federal requirements of adequate yearly progress.

**Source: L. 2008:** Entire article added, p. 1420, § 1, effective May 28.

**22-32.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Commissioner” means the commissioner of education appointed by the state board of education pursuant to section 22-2-110.

(2) “District of innovation” means a school district that is designated as a district of innovation pursuant to section 22-32.5-107.

(3) “Innovation school” means a school in which a local school board implements an innovation plan pursuant to section 22-32.5-104.

(4) “Innovation school zone” means a group of schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education and in which a local school board implements a plan for creating an innovation school zone pursuant to section 22-32.5-104.

(5) “Local school board” means the board of education of a school district.

(6) “State board” means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1422, § 1, effective May 28.

**22-32.5-104. Innovation plans - submission - contents.** (1) (a) A public school of a school district may submit to its local school board an innovation plan as described in subsection (3) of this section. A group of public schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education may jointly submit to their local school board a plan to create an innovation school zone as described in subsection (4) of this section.

(b) A local school board shall receive and review each innovation plan or plan for creating an innovation school zone submitted pursuant to paragraph (a) of this subsection (1). The local school board shall either approve or disapprove the innovation plan or plan for creating an innovation school zone within sixty days after receiving the plan.

(c) If the local school board rejects the plan, it shall provide to the public school or group of public schools that submitted the plan a written explanation of the basis for its decision. A public school or group of public schools may resubmit an amended innovation plan or amended plan for creating an innovation school zone at any time after denial.

(d) If the local school board approves the plan, it may proceed to seek designation of the school district as a district of innovation pursuant to section 22-32.5-107.

(2) A local school board may initiate and collaborate with one or more public schools of the school district to create one or more innovation plans, as described in subsection (3) of this section, or one or more plans to create innovation school zones, as described in subsection (4) of this section. In creating an innovation plan or a plan to create an innovation school zone, the local school board shall ensure that each public school that would be affected by the plan has opportunity to participate in creation of the plan. A local school board may approve or create a plan to create an innovation school zone that includes all of the public schools of the school district. If the local school board creates an innovation plan or a plan for creating an innovation school zone, the local school board may seek designation of the school district as a district of innovation pursuant to section 22-32.5-107.

(3) Each innovation plan, whether submitted by a public school or created by a local school board through collaboration between the local school board and a public school, shall include the following information:



(a) A statement of the public school's mission and why designation as an innovation school would enhance the school's ability to achieve its mission;

(b) A description of the innovations the public school would implement, which may include, but need not be limited to, innovations in school staffing; curriculum and assessment; class scheduling; use of financial and other resources; and faculty recruitment, employment, evaluation, and compensation;

(c) A listing of the programs, policies, or operational documents within the public school that would be affected by the public school's identified innovations and the manner in which they would be affected. The programs, policies, or operational documents may include, but need not be limited to:

(I) The research-based educational program the public school would implement;

(II) The length of school day and school year at the public school;

(III) The student promotion and graduation policies to be implemented at the public school;

(IV) The public school's assessment plan;

(V) The proposed budget for the public school; and

(VI) The proposed staffing plan for the public school.

(d) An identification of the improvements in academic performance that the public school expects to achieve in implementing the innovations;

(e) An estimate of the cost savings and increased efficiencies, if any, the public school expects to achieve in implementing its identified innovations;

(f) Evidence that a majority of the administrators employed at the public school, a majority of the teachers employed at the public school, and a majority of the school accountability committee for the public school consent to designation as an innovation school;

(g) A statement of the level of support for designation as an innovation school demonstrated by the other persons employed at the public school, the students and parents of students enrolled in the public school, and the community surrounding the public school;

(h) A description of any statutory sections included in this title or any regulatory or district policy requirements that would need to be waived for the public school to implement its identified innovations;

(i) A description of any provision of the collective bargaining agreement in effect for the personnel at the public school that would need to be waived for the public school to implement its identified innovations; and

(j) Any additional information required by the local school board of the school district in which the innovation plan would be implemented.

(4) Each plan for creating an innovation school zone, whether submitted by a group of public schools or created by a local school board through collaboration with a group of public schools, shall include the information specified in subsection (3) of this section for each public school that would be included in the innovation school zone. A plan for creating an innovation school zone shall also include the following additional information:

(a) A description of how innovations in the public schools in the school innovation zone would be integrated to achieve results that would be less likely to be accomplished by each public school working alone;

(b) An estimate of any economies of scale that would be achieved by innovations implemented jointly by the public schools within the innovation school zone;

(c) Evidence that a majority of the administrators and a majority of the teachers employed at each public school that would be included in the innovation school zone and a majority of the school accountability committee for each public school that would be included in the innovation school zone consent to creating the innovation school zone; and

(d) A statement of the level of support for creating an innovation school zone demonstrated by the other persons employed at each public school that would be included in the zone, the students and parents of students enrolled in each public school that would be included in the zone, and the community in which the local school board would approve the innovation school zone. In determining the level of support, each public school shall

specifically solicit input concerning the selection of public schools included in the innovation school zone and the strategies and procedures that would be used in implementing and integrating the innovations within the public schools in the zone.

**Source: L. 2008:** Entire article added, p. 1422, § 1, effective May 28. **L. 2009:** (3)(f) and (4)(c) amended, (SB 09-163), ch. 293, p. 1542, § 44, effective May 21; (3)(f) and (4)(c) amended, (SB 09-090), ch. 291, p. 1444, § 17, effective August 5.

**22-32.5-105. Suggested innovations.** (1) In considering or creating an innovation plan or a plan for creating an innovation school zone, each local school board is strongly encouraged to consider innovations in the following areas:

(a) Curriculum and academic standards and assessments;  
(b) Accountability measures, including but not limited to expanding the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment. The accountability measures adopted by an innovation school or an innovation school zone may include, but need not be limited to:

(I) Use of graduation or exit examinations;  
(II) Use of end-of-course examinations;  
(III) Use of student portfolio reviews;  
(IV) Use of national and international accountability measures such as the national assessment of educational progress and the program for international student assessment;  
(V) Measuring the percentage of students continuing into higher education; and  
(VI) Measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate.

(c) Provision of services, including but not limited to special education services; services for gifted and talented students; services for students with limited English proficiency; educational services for students at risk of academic failure, expulsion, or dropping out; and support services provided by the department of human services or county social services agencies;

(d) Teacher recruitment, training, preparation, and professional development;  
(e) Teacher employment;  
(f) Performance expectations and evaluation procedures for teachers and principals;  
(g) Compensation for teachers, principals, and other school building personnel, including but not limited to performance pay plans, total compensation plans, and other innovations with regard to retirement and other benefits;

(h) School governance and the roles, responsibilities, and expectations of principals in innovation schools or schools within an innovation school zone; and

(i) Preparation and counseling of students for transition to higher education or the work force.

**Source: L. 2008:** Entire article added, p. 1425, § 1, effective May 28. **L. 2010:** (1)(c) amended, (SB 10-062), ch. 168, p. 595, § 12, effective April 29.

**22-32.5-106. Innovation planning - financial support.** Each public school and each local school board is authorized and encouraged to seek and accept public and private gifts, grants, and donations to offset the costs of developing and implementing innovation plans and plans for creating innovation school zones.

**Source: L. 2008:** Entire article added, p. 1426, § 1, effective May 28.

**22-32.5-107. District of innovation - designation.** (1) Each local school board may seek for its school district designation by the state board as a district of innovation. A local school board may seek the designation on the basis of innovation plans or plans for creating innovation school zones approved or collaboratively created by the local school board pursuant to section 22-32.5-104.



(2) A local school board that seeks designation as a district of innovation shall submit one or more innovation plans or plans for creating an innovation school zone to the commissioner for review and comment by the commissioner and the state board. Within sixty days after receiving a local school board's plan, the commissioner and the state board shall respond to the local school board with any suggested changes or additions to the plan, including but not limited to suggestions for further innovations or for measures to increase the likelihood that the innovations will result in greater academic achievement within the innovation schools or innovation school zones. Based on the commissioner's and the state board's comments, the local school board may choose to withdraw and resubmit its innovation plan or plan for creating an innovation school zone.

(3) (a) Within sixty days after receiving a local school board's innovation plan or plan for creating an innovation school zone, the state board shall designate the local school board's school district as a district of innovation unless the state board concludes that the submitted plan:

(I) Is likely to result in a decrease in academic achievement in the innovation schools or innovation school zones; or

(II) Is not fiscally feasible.

(b) If the state board does not designate a school district as a district of innovation, it shall provide to the local school board a written explanation of the basis for its decision. The local school board may resubmit an amended innovation plan or plan for creating an innovation school zone and seek designation of its school district as a school district of innovation at any time after denial.

(4) It is the intent of the general assembly that the department of education receive a one-time appropriation to offset the costs incurred by the department and the state board in adopting rules and otherwise establishing the procedures for implementation of this section. The general assembly finds, however, that the department of education and the state board may implement this section in future years without additional state funding.

**Source: L. 2008:** Entire article added, p. 1426, § 1, effective May 28.

**22-32.5-108. District of innovation - waiver of statutory and regulatory requirements.** (1) Upon designation of a district of innovation, the state board shall waive any statutes or rules specified in the school district's innovation plan as they pertain to the innovation schools or innovation school zones of the district of innovation; except that the state board shall not waive:

(a) Any statutes specified in section 22-2-117 (1) (b);

(b) Any provision of article 64 of this title; or

(c) Any statutes that are not included in this title, including but not limited to article 51 of title 24, C.R.S.

(2) Each district of innovation shall continue to be subject to all statutes and rules that are not waived by the state board pursuant to subsection (1) of this section, including but not limited to all statutes and rules concerning implementation of:

(a) The Colorado student assessment program created in section 22-7-409;

(b) Article 11 of this title; and

(c) The requirements of the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(3) Designation as a district of innovation shall not affect a school district's:

(a) Total program funding calculated pursuant to the "Public School Finance Act of 1994", article 54 of this title; or

(b) Eligibility for funding under, or the amount received through, a categorical program, as defined in section 22-55-102 (4).

(4) Each district of innovation that receives a waiver pursuant to this section shall specify the manner in which the innovation school or the schools within the innovation school zone shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.

(5) (a) If the local school board for a district of innovation revises an innovation plan as provided in section 22-32.5-110, the local school board may request, and the state board

shall grant, additional waivers or changes to existing waivers as necessary to accommodate the revisions to the innovation plan. In requesting a new waiver or a change to an existing waiver, the local school board shall demonstrate the consent of a majority of the teachers and a majority of the administrators employed at and a majority of the school advisory committee for each public school that is affected by the new or changed waiver.

(b) Except as otherwise provided in paragraph (a) of this subsection (5), a waiver that is granted pursuant to this section shall continue to apply to a public school so long as the public school continues to be designated as an innovation school or included in an innovation school zone.

**Source: L. 2008:** Entire article added, p. 1427, § 1, effective May 28. **L. 2009:** (2)(b) amended. (SB 09-163), ch. 293, p. 1543, § 45, effective May 21.

**22-32.5-109. District of innovation - collective bargaining agreements.** (1) (a) On and after the date on which the state board designates a school district as a district of innovation, any collective bargaining agreement initially entered into or renewed by the local school board of the district of innovation shall include a term that allows each innovation school and each innovation school zone in the school district to waive any provisions of the collective bargaining agreement identified in the innovation plan as needing to be waived for the innovation school or the innovation school zone to implement its identified innovations.

(b) For an innovation school, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining the approval, by means of a secret ballot vote, of at least sixty percent of the members of the collective bargaining unit who are employed at the innovation school.

(c) For an innovation school zone, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining, at each school included in the innovation school zone, the approval of at least sixty percent of the members of the collective bargaining unit who are employed at the school. The innovation school zone shall seek to obtain approval of the waivers through a secret ballot vote of the members of the collective bargaining unit at each school included in the innovation school zone. The local school board for the innovation school zone may choose to revise the plan for creating an innovation school zone to remove from the zone any school in which at least sixty percent of the members of the collective bargaining unit employed at the school do not vote to waive the identified provisions of the collective bargaining agreement.

(d) If a local school board, in collaboration with the innovation school or the public schools included in the innovation school zone, revises the innovation plan as provided in section 22-32.5-110 and the revisions include changes to the identified provisions of the collective bargaining agreement that need to be waived to implement the innovations that are included in the innovation plan, the local school board shall seek such additional waivers or revision or revocation of the existing waivers of provisions of the collective bargaining agreement as are necessary to implement the revised innovation plan. Any changes to waivers, or additional waivers, of the identified provisions of the collective bargaining agreement shall be subject to approval in the same manner as provided in paragraphs (b) and (c) of this subsection (1) for the initial approval of waivers of provisions of the collective bargaining agreement.

(e) Except as otherwise provided in paragraph (d) of this subsection (1), waiver of identified provisions of a collective bargaining agreement for an innovation school or the public schools within an innovation school zone pursuant to this subsection (1) shall continue so long as the innovation school remains an innovation school or a public school remains a part of the innovation school zone. A waiver approved pursuant to this subsection (1) shall continue to apply to any substantially similar provision that is included in a new or renewed collective bargaining agreement for the schools of the district of innovation.

(2) A district of innovation shall not be required to seek a waiver by an innovation school or a public school in an innovation school zone of any provision of the collective bargaining agreement. Each district of innovation shall include in its innovation plan a statement as to whether it will seek a waiver by an innovation school or the public schools



included in an innovation school zone of any of the provisions of the collective bargaining agreement.

(3) A person who is a member of the collective bargaining unit and is employed by an innovation school or by a school included in an innovation school zone may request a transfer to another public school of the district of innovation. The local school board shall make every reasonable effort to accommodate the person's request.

**Source: L. 2008:** Entire article added, p. 1428, § 1, effective May 28.

**22-32.5-110. District of innovation - review of innovation schools and innovation school zones.** (1) Three years after the local school board of a district of innovation approves an innovation plan or a plan for creating an innovation school zone, and every three years thereafter, the local school board shall review the level of performance of the innovation school and each public school included in the innovation school zone and determine whether the innovation school or innovation school zone is achieving or making adequate progress toward achieving the academic performance results identified in the school's or zone's innovation plan. The local school board, in collaboration with the innovation school or the innovation school zone, may revise the innovation plan, including but not limited to revising the identification of the provisions of the collective bargaining agreement that need to be waived to implement the innovations, as necessary to improve or continue to improve academic performance at the innovation school or innovation school zone. Any revisions to the innovation plan shall require the consent of a majority of the teachers and a majority of the administrators employed at and a majority of the school accountability committee for each affected public school.

(2) (a) Following review of an innovation school's performance, if a local school board finds that the academic performance of students enrolled in the innovation school is not improving at a sufficient rate, the local school board may revoke the school's innovation status.

(b) Following review of the performance of an innovation school zone, if a local school board finds that the academic performance of students enrolled in one or more of the public schools included in the innovation school zone is not improving at a sufficient rate, the local school board may remove the underperforming public school or schools from the innovation school zone or may revoke the designation of the innovation school zone.

**Source: L. 2008:** Entire article added, p. 1430, § 1, effective May 28. **L. 2009:** (1) amended. (SB 09-163), ch. 293, p. 1543, § 46, effective May 21; (1) amended. (SB 09-090), ch. 291, p. 1444, § 18, effective August 5.

**22-32.5-111. Reporting.** (1) On or before March 1, 2010, and on or before March 1 each year thereafter, the commissioner and the state board shall submit to the governor and to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the districts of innovation. At a minimum, the report shall include:

(a) The number of school districts designated as districts of innovation in the preceding academic year and the total number of districts of innovation in the state;

(b) The number of innovation schools and the number of innovation school zones, including the number of schools in the zone, in each district of innovation and the number of students served in the innovation schools and innovation school zones, expressed as a total number and as a percentage of the students enrolled in the district of innovation;

(c) An overview of the innovations implemented in the innovation schools and the innovation school zones in the districts of innovation;

(d) An overview of the academic performance of the students served in innovation schools and innovation school zones in each district of innovation, including a comparison between the students' academic performance before and since implementation of the innovations;

(e) Any recommendations for legislative changes based on the innovations implemented or to further enhance the ability of local school boards to implement innovations; and

(f) Any additional information requested by the governor or a member of the general assembly.

(2) The commissioner shall ensure that the annual report submitted pursuant to this section is promptly posted on the department of education web site.

**Source: L. 2008:** Entire article added, p. 1430, § 1, effective May 28.

**ARTICLE 33**

**School Attendance Law of 1963**

PART 1		22-33-107.	Enforcement of compulsory school attendance.
SCHOOL ATTENDANCE LAW OF 1963		22-33-107.1.	Parental notice of dropout status. (Repealed)
22-33-101.	Short title.	22-33-107.5.	Notice of failure to attend.
22-33-102.	Definitions.	22-33-108.	Judicial proceedings.
22-33-103.	Free education - tuition may be charged, when.	22-33-109.	Regulations.
22-33-103.5.	Attendance of homeless children.	22-33-110.	Jurisdiction - board of education.
22-33-104.	Compulsory school attendance.	22-33-111.	School discipline study - legislative declaration - task force appointed - report - repeal. (Repealed)
22-33-104.5.	Home-based education - legislative declaration - definitions - guidelines.	PART 2	
22-33-104.6.	On-line program - legislative declaration - authorized - definitions. (Repealed)	EXPULSION PREVENTION PROGRAMS	
22-33-104.7.	Eligibility for the general educational development tests.	22-33-201.	Legislative declaration.
22-33-105.	Suspension, expulsion, and denial of admission.	22-33-201.5.	Definitions.
22-33-106.	Grounds for suspension, expulsion, and denial of admission.	22-33-202.	Identification of at-risk students.
22-33-106.3.	Disciplinary investigations - parental presence - student statements.	22-33-203.	Educational alternatives for expelled students.
22-33-106.5.	Information concerning offenses committed by students.	22-33-204.	Services for at-risk students - agreements with state agencies and community organizations.
		22-33-204.5.	Legislative declaration.
		22-33-205.	Services for expelled and at-risk students - grants - criteria.

**PART 1**

**SCHOOL ATTENDANCE LAW OF 1963**

**22-33-101. Short title.** This article shall be known and may be cited as the “School Attendance Law of 1963”.

**Source: L. 63:** p. 861, § 1. **C.R.S. 1963:** § 123-20-1.

**ANNOTATION**

**Applied** in Lujan v. Colo. State Bd. of Educ., 649 P.2d 1005 (Colo. 1982).



**22-33-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Academic year" means that portion of the school year during which the public schools are in regular session, beginning about the first week in September and ending about the first week in June of the next year, or that portion of the school year which constitutes the minimum period during which a pupil must be enrolled.

(2) "Adult" means a person who has reached the age of twenty-one years.

(3) "Board of education" means the school board, board of directors, and board of education of a school district.

(4) "Dangerous weapon" means:

(a) A firearm, as defined in section 18-1-901 (3) (h), C.R.S.;

(b) Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;

(c) A fixed-blade knife with a blade that exceeds three inches in length;

(d) A spring-loaded knife or a pocket knife with a blade exceeding three and one-half inches in length; or

(e) Any object, device, instrument, material, or substance, whether animate or inanimate, that is used or intended to be used to inflict death or serious bodily injury.

(5) "Delinquent act" has the same meaning as set forth in section 19-1-103 (36), C.R.S.

(6) "Executive officer" means the superintendent of schools or the head administrative officer designated by a board of education to execute its policy decisions.

(7) "General educational development tests" or "GED" means the battery of tests given at an authorized testing center, which tests are designed and published by the GED testing service of the American council on education to measure the major outcomes and concepts generally associated with four years of high school education. Each GED testing center must have a current contract with the American council on education and be authorized by the commissioner of education.

(8) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1) (c.5).

(9) "Informal hearing" means an opportunity for a child to explain his or her position regarding a disruption or an incident that occurred on school grounds, in a school vehicle, or at a school activity or sanctioned event and that constituted grounds for discipline.

(10) "Parent" means the mother or father of a child or any other person having custody of a child.

(10.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(11) "School vehicle" has the same meaning as set forth in section 42-1-102 (88.5), C.R.S.

(12) "State board" means the state board of education.

**Source:** L. 63: p. 861, § 2. C.R.S. 1963: § 123-20-2. L. 64: p. 571, § 1. L. 73: pp. 1254, 1314, §§ 4, 5. L. 77: (1) amended, p. 1071, § 3, effective May 24. L. 80: (1) amended, p. 551, § 1, effective April 30. L. 86: (1) amended, p. 801, § 3, effective July 1. L. 92: (4.5) added, p. 476, § 3, effective April 24. L. 96: (4.7) added, p. 1804, § 1, effective July 1. L. 2012: (10.5) added, (HB 12-1090), ch. 44, p. 152, § 13, effective March 22; entire section amended, (HB 12-1345), ch. 188, p. 739, § 24, effective May 19.

**Editor's note:** Subsection (5.5), as enacted in House Bill 12-1090, was harmonized with House Bill 12-1345 and relocated to subsection (10.5).

**Cross references:** (1) For the legislative declaration in the 2012 act amending this section, see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

**22-33-103. Free education - tuition may be charged, when.** Any resident of this state who has attained the age of six years and is under the age of twenty-one years is entitled

to attend public school in the school district of which he is a resident, during the academic year when the schools of the district are in regular session, and without the payment of tuition, subject only to the limitations of sections 22-33-105 and 22-33-106. Tuition may be charged for a pupil who is not a resident of the school district in which the pupil attends school if the school district of residence agrees to pay such tuition as provided in section 22-32-115. In no event shall the parents or guardian of such pupil be required to pay tuition on behalf of such pupil. Tuition may be charged to pupils whose parents or guardian are not residents of the state and to resident or nonresident adult pupils, as otherwise provided by law.

**Source:** L. 63: p. 861, § 3. C.R.S. 1963: § 123-20-3. L. 64: p. 571, § 2. L. 94: Entire section amended, p. 559, § 5, effective April 6.

**Cross references:** For district liability for tuition and limitations concerning same, see § 22-32-115.

**22-33-103.5. Attendance of homeless children.** (1) **Equal access to school.** Nothing in this article shall be construed to prohibit a child from attending a public school without the payment of tuition solely because the child is homeless as defined in section 22-1-102.5.

(2) **Place of residence of a homeless child.** A child found to be homeless pursuant to the provisions of section 22-1-102.5 may be deemed by the school districts described in paragraphs (a) and (b) of this subsection (2), taking into consideration the best interests of the child, to reside in:

- (a) The school district where the child presently seeks shelter or is located; or
- (b) For so long as the child remains homeless, the school district in which the child's school of origin is located; except that a child who, subsequent to becoming homeless, becomes permanently housed in the same school year may be deemed to reside in the school district of the school of origin, but only for the remainder of the school year.

(3) **Best interests of a homeless child.** In determining the best interests of a homeless child for purposes of subsection (2) of this section, the school districts described in paragraphs (a) and (b) of subsection (2) of this section shall:

(a) To the extent feasible and except when it is against the wishes of the homeless child's parent or legal guardian or against the wishes of an unaccompanied homeless child, keep the homeless child in the homeless child's school of origin;

(b) Provide a written explanation, including a statement regarding the right to appeal pursuant to subsection (4) of this section, to the parent or legal guardian of the homeless child, if the school districts send the homeless child to a school other than the child's school of origin or to a school other than the school requested by the parent or legal guardian;

(c) In the case of an unaccompanied homeless child, assure that the homeless child liaison designated by one of the school districts pursuant to subsection (7) of this section assists in the placement or enrollment decisions, considers the school preference of the unaccompanied homeless child, and provides notice of the right to appeal pursuant to subsection (4) of this section to the unaccompanied homeless child.

(4) **Disputes.** (a) If a homeless child's parent or legal guardian or an unaccompanied homeless child disagrees with the decision of the school districts pursuant to subsection (2) of this section, the homeless child shall be immediately enrolled in the school selected by the homeless child's parent or legal guardian or, in the case of an unaccompanied homeless child, by the child, pending resolution of the dispute through the appeal process created by the department of education pursuant to paragraph (b) of this subsection (4).

(b) Consistent with federal requirements, the department of education shall create an appeal process for a parent or legal guardian of a homeless child or an unaccompanied homeless child to pursue if the parent or legal guardian or the unaccompanied homeless child disagrees with the decision of the school districts pursuant to subsection (2) of this section.



(5) **Enrollment.** (a) The school selected for a homeless child pursuant to this section shall immediately enroll the homeless child, even if the child lacks records normally required prior to enrollment.

(b) The enrolling school shall immediately contact the school last attended by the homeless child to obtain any records necessary for enrollment.

(c) If the homeless child's immunizations are incomplete or if the homeless child's immunization records are unavailable, the enrolling school shall arrange for such immunizations as may be necessary.

(6) **Transportation.** (a) If it is determined pursuant to subsection (2) of this section that the best interest of a homeless child is to continue his or her education at the school of origin and the homeless child presently seeks shelter or is located in another school district, and the homeless child's parent or legal guardian or the homeless child liaison, on behalf of an unaccompanied homeless child, requests transportation to and from school, the school district where the homeless child presently seeks shelter or is located and the school district in which the school of origin is located shall agree upon a method to apportion cost and responsibility for the transportation of the homeless child to the school district where the homeless child is attending, or, in the alternative, each school district shall share equally in the cost and responsibility for transportation.

(b) If a homeless child continues to reside in the school district in which the school of origin is located, such school district, upon request of the homeless child's parent or legal guardian or upon request of the homeless child liaison, on behalf of an unaccompanied homeless child, shall arrange or provide for transportation of the homeless child to and from school.

(7) **Liaison.** The board of education of each school district in the state shall designate one or more of the employees of the school district to act as a homeless child liaison. The homeless child liaison shall facilitate a homeless child's access to and success in school. The homeless child liaison shall also assist in the mediation of any disputes concerning school enrollment, assist in making arrangements for transportation of the homeless child to and from school, assist in requesting school and immunization records, and assist any unaccompanied homeless child in making enrollment decisions. On or before the pupil enrollment count day, the homeless child liaison in each school district shall report to the department of education the number of homeless children enrolled in the school district.

(8) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "School of origin" means the school a child attended at the time the child became homeless, or, if the child became homeless during a period that he or she was not attending school, the last school the child attended prior to becoming homeless.

(b) "Unaccompanied homeless child" means a child who meets the requirements of section 22-1-102.5 who is not in the physical custody of a parent or legal guardian.

**Source:** L. 90: Entire section added, p. 1041, § 4, effective April 3. L. 97: Entire section amended, p. 982, § 3, effective May 22. L. 2002: Entire section amended, p. 202, § 1, effective July 1. L. 2012: (7) amended, (HB 12-1090), ch. 44, p. 153, § 14, effective March 22.

**22-33-104. Compulsory school attendance.** (1) (a) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years, except as provided by this section, shall attend public school for at least the following number of hours during each school year:

(I) One thousand fifty-six hours if a secondary school pupil;

(II) Nine hundred sixty-eight hours if an elementary school pupil in a grade other than kindergarten;

(III) Nine hundred hours if a full-day kindergarten pupil; or

(IV) Four hundred fifty hours if a half-day kindergarten pupil.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), a school or schools shall not be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education.

(c) A student who participates in an on-line program or on-line school pursuant to the provisions of article 30.7 of this title shall be deemed to attend school in accordance with the requirements of this subsection (1).

(d) Nothing in this section shall be interpreted to require a child who begins attending preschool or kindergarten at five or six years of age to advance to first grade in the following school year. A parent of a child who began attending preschool or kindergarten at five or six years of age may notify the child's school of the parent's wish that the child not advance to first grade in the following school year, and a school that receives such notice shall not advance the child to first grade in the following school year.

(1.5) (Deleted by amendment, L. 2006, p. 1211, § 2, effective July 1, 2007.)

(2) The provisions of subsection (1) of this section shall not apply to a child:

(a) Who is temporarily ill or injured or whose absence is approved by the administrator of the school of attendance;

(b) Who is enrolled for a minimum of one hundred seventy-two days in an independent or parochial school which provides a basic academic education. "Basic academic education" for the purpose of this article means the sequential program of instruction provided by an independent or parochial school. Such program shall include, but not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, and science.

(c) Who is absent for an extended period due to physical, mental, or emotional disability;

(d) Who has been suspended, expelled, or denied admission in accordance with the provisions of this article; except that, when a pupil is expelled for the remainder of the school year, the parent, guardian, or legal custodian is responsible for seeing that either the provisions of subsection (1) of this section are complied with during the period of expulsion from the school district or that the pupil meets the conditions for exemption specified in paragraph (b) or (i) of this subsection (2);

(e) To whom a current age and school certificate or work permit has been issued pursuant to the "Colorado Youth Employment Opportunity Act of 1971", article 12 of title 8, C.R.S.;

(f) Who is in the custody of a court or law enforcement authorities;

(g) Who is pursuing a work-study program under the supervision of a public school;

(h) Who has graduated from the twelfth grade;

(i) Who is being instructed at home;

(I) By a teacher licensed pursuant to article 60.5 or 61 of this title; or

(II) Under a nonpublic home-based educational program pursuant to section 22-33-104.5.

(III) (Deleted by amendment, L. 2003, p. 2131, § 24, effective May 22, 2003.)

(j) Who is enrolled in a school where the state board of education has approved a lesser number of days.

(3) Unless within one of the exceptions listed in subsection (2) of this section, a child who is deaf or blind, and who has attained the age of six years and is under the age of seventeen, shall attend, for at least one hundred seventy-two days during the school year, a school which provides suitable specialized instruction. The provisions of this subsection (3) shall not apply to a child if the Colorado school for the deaf and the blind refuses him admission and it is impractical to arrange for attendance at a special education class, as provided in article 20 of this title, within daily commuting distance of the child's home. If any school providing instruction for deaf or blind children offers fewer than the necessary one hundred seventy-two days of instruction, the school shall file with the school district in which it is located a report showing the number of days classes were held and the names and ages of the children enrolled.

(4) (a) The board of education shall adopt a written policy setting forth the district's attendance requirements. Said policy shall provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.



(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

(5) (a) The general assembly hereby declares that two of the most important factors in ensuring a child's educational development are parental involvement and parental responsibility. The general assembly further declares that it is the obligation of every parent to ensure that every child under such parent's care and supervision receives adequate education and training. Therefore, every parent of a child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years shall ensure that such child attends the public school in which such child is enrolled in compliance with this section.

(b) Parents whose children are enrolled in an independent or parochial school or a non-public home-based educational program pursuant to the provisions of subsection (2) of this section shall be exempt from the requirements of this subsection (5).

**Source:** L. 63: p. 862, § 5. C.R.S. 1963: § 123-20-5. L. 73: pp. 1254, 1314, §§ 5, 6. L. 74: (2)(j) added, p. 363, § 1, effective March 19. L. 77: (1) amended, p. 1071, § 4, effective May 24. L. 80: (1) amended, p. 551, § 2, effective April 30. L. 83: (2)(b) amended, p. 755, § 1, effective June 3. L. 84: (4) added, p. 597, § 2, effective April 5. L. 86: (1) amended, p. 801, § 4, effective July 1. L. 87: (2)(i) amended, p. 829, § 1, effective July 1. L. 88: (2)(j) amended, p. 768, § 2, effective July 1. L. 93: (5) added, p. 457, § 1, effective April 19; (2)(d) amended, p. 454, § 6, effective July 1. L. 94: (4) amended, p. 678, § 3, effective April 19. L. 97: (1.5) added, p. 41, § 1, effective July 1. L. 98: (1), (2)(d), and (2)(i) amended, p. 654, § 1, effective August 5. L. 2000: (2)(i)(I) amended, p. 1857, § 60, effective August 2. L. 2003: (1) and (2)(i)(III) amended, p. 2131, § 24, effective May 22. L. 2006: (1), (1.5), and (5)(a) amended, p. 1211, § 2, effective July 1, 2007. L. 2007: (1)(c) amended, p. 1089, § 15, effective July 1; IP(1)(a) and (5)(a) amended and (1)(d) added, p. 70, § 1, effective July 1, 2008. L. 2008: (4)(c) added, p. 517, § 1, effective August 5. L. 2009: (4)(a) amended, (HB 09-1243), ch. 290, p. 1423, § 3, effective May 21. L. 2012: (1)(c) amended, (HB 12-1240), ch. 258, p. 1330, § 44, effective June 4.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsections (1), (1.5), and (5)(a), see section 1 of chapter 265, Session Laws of Colorado 2006.

## ANNOTATION

**Law reviews.** For article, "Children in Need: Observations of Practice of the Denver Juvenile Court", see 51 Den. L.J. 337 (1974). For article, "Truancy in Colorado: A Truancy Reduction Model in the Public Schools", see 34 Colo. Law. 19 (November 2005).

**The state, for its own protection, may require children to be educated.** People ex rel. Vallimar v. Stanley, 81 Colo. 276, 255 P. 610 (1927).

**Compulsory attendance law constitutionally enacted.** The general assembly did not exceed its constitutional authority in enacting the

compulsory school attendance law. In Interest of Y.D.M., 197 Colo. 403, 593 P.2d 1356 (1979).

**List of exclusions from compulsory attendance not exhaustive.** Although this section specifically enumerates several circumstances which, if proven, render the compulsory attendance law inapplicable, this list of justifications is not exhaustive. In Interest of Y.D.M., 197 Colo. 403, 593 P.2d 1356 (1979).

**Placing burden on child to show absences excused is not unfair.** It is not manifestly unfair to place on the child the burden to show that her absences from school were excused, for the facts

which prove or disprove a claimed excuse are uniquely within the knowledge of the child and its parents or custodian. In Interest of Y.D.M., 197 Colo. 403, 593 P.2d 1356 (1979).

**Common-law defense of duress has not been abrogated by the compulsory attendance statute,** and the court must instruct the jury on this defense if requested. In Interest of Y.D.M., 197 Colo. 403, 593 P.2d 1356 (1979).

**Denial of credit because of absences may be invalid.** Where a school district's policy denies academic credit to students with more than seven absences, even if the absences are due partially to suspensions and excused absences, such policy is inconsistent with this section, and is thus invalid or inconsistent with state law. Gutierrez v. Sch. Dist. R-1, 41 Colo.

App. 411, 585 P.2d 935 (1978) (decided prior to 1984 amendment adding subsection (4)).

**For previous exemption of those over 14 who have completed eighth grade,** see Washington County High Sch. Dist. v. Bd. of Comm'rs, 85 Colo. 72, 273 P. 879 (1928).

**Exemption of subsection (2) requires only enrollment, not attendance, at independent or parochial school.** Legislative change substituting word "enrolled" for word "attends" was clear evidence of intent not to require physical presence at independent or parochial school. Periodic attendance for testing only by students otherwise tutored at home was therefore adequate satisfaction of compulsory attendance statute. People in Interest of D.B., 767 P.2d 801 (Colo. App. 1988).

**22-33-104.5. Home-based education - legislative declaration - definitions - guidelines.** (1) The general assembly hereby declares that it is the primary right and obligation of the parent to choose the proper education and training for children under his care and supervision. It is recognized that home-based education is a legitimate alternative to classroom attendance for the instruction of children and that any regulation of nonpublic home-based educational programs should be sufficiently flexible to accommodate a variety of circumstances. The general assembly further declares that nonpublic home-based educational programs shall be subject only to minimum state controls which are currently applicable to other forms of nonpublic education.

(2) As used in this section:

(a) "Nonpublic home-based educational program" means the sequential program of instruction for the education of a child which takes place in a home, which is provided by the child's parent or by an adult relative of the child designated by the parent, and which is not under the supervision and control of a school district. This educational program is not intended to be and does not qualify as a private and nonprofit school.

(b) "Parent" includes a parent or guardian.

(c) "Qualified person" means an individual who is selected by the parent of a child who is participating in a nonpublic home-based educational program to evaluate such child's progress and who is a teacher licensed pursuant to article 60.5 of this title, a teacher who is employed by an independent or parochial school, a licensed psychologist, or a person with a graduate degree in education.

(3) The following guidelines shall apply to a nonpublic home-based educational program:

(a) A parent or an adult relative designated by a parent to provide instruction in a nonpublic home-based educational program shall not be subject to the requirements of the "Colorado Educator Licensing Act of 1991", article 60.5 of this title, nor to the provisions of article 61 of this title relating to teacher employment.

(b) A child who is participating in a nonpublic home-based educational program shall not be subject to compulsory school attendance as provided in this article; except that any child who is habitually truant, as defined in section 22-33-107 (3), at any time during the last six months that the child attended school before proposed enrollment in a nonpublic home-based educational program may not be enrolled in the program unless the child's parents first submit a written description of the curricula to be used in the program along with the written notification of establishment of the program required in paragraph (e) of this subsection (3) to any school district within the state.

(c) A nonpublic home-based educational program shall include no less than one hundred seventy-two days of instruction, averaging four instructional contact hours per day.

(d) A nonpublic home-based educational program shall include, but need not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, science, and regular courses of instruction in the constitution of the United States as provided in section 22-1-108.



(e) Any parent establishing a nonpublic home-based educational program shall provide written notification of the establishment of said program to a school district within the state fourteen days prior to the establishment of said program and each year thereafter if the program is maintained. The parent in charge and in control of a nonpublic home-based educational program shall certify, in writing, only a statement containing the name, age, place of residence, and number of hours of attendance of each child enrolled in said program. Notwithstanding the provisions of section 22-33-104 (1), a parent who intends to establish a nonpublic home-based educational program is not required to:

(I) Provide written notification of the program to a school district within the state until the parent's child is six years of age;

(II) Establish the program until the parent's child is seven years of age; or

(III) Continue the program or provide the notification after the child is sixteen years of age.

(f) Each child participating in a nonpublic home-based educational program shall be evaluated when such child reaches grades three, five, seven, nine, and eleven. Each child shall be given a nationally standardized achievement test to evaluate the child's academic progress, or a qualified person shall evaluate the child's academic progress. The test or evaluation results, whichever is appropriate, shall be submitted to the school district that received the notification required by paragraph (e) of this subsection (3) or an independent or parochial school within the state of Colorado. If the test or evaluation results are submitted to an independent or parochial school, the name of such school shall be provided to the school district that received the notification required by paragraph (e) of this subsection (3). The purpose of such tests or evaluations shall be to evaluate the educational progress of each child. No scores for a child participating in a nonpublic home-based educational program shall be considered in measuring school performance or determining accreditation pursuant to article 11 of this title.

(g) The records of each child participating in a nonpublic home-based educational program shall be maintained on a permanent basis by the parent in charge and in control of said program. The records shall include, but need not be limited to, attendance data, test and evaluation results, and immunization records, as required by sections 25-4-901, 25-4-902, and 25-4-903, C.R.S. Such records shall be produced to the school district that received the notification required by paragraph (e) of this subsection (3) upon fourteen days' written notice if the superintendent of said school district has probable cause to believe that said program is not in compliance with the guidelines established in this subsection (3).

(4) Any child who has participated in a nonpublic home-based educational program and who subsequently enrolls in the public school system may be tested by the school district in which the child has enrolled for the purpose of placing the child in the proper grade and shall then be placed at the grade level deemed most appropriate by said school district, with the consent of the child's parent or legal guardian. The school district shall accept the transcripts for credit from the non-public home-based educational program for any such child; except that the school district may reject such transcripts if the school district administers testing to such child and the testing does not verify the accuracy of such transcripts.

(5) (a) (I) If test results submitted to the appropriate school district pursuant to the provisions of paragraph (f) of subsection (3) of this section show that a child participating in a nonpublic home-based educational program received a composite score on said test which was above the thirteenth percentile, such child shall continue to be exempt from the compulsory school attendance requirement of this article. If the child's composite score on said test is at or below the thirteenth percentile, the school district shall require the parents to place said child in a public or independent or parochial school until the next testing period; except that no action shall be taken until the child is given the opportunity to be retested using an alternate version of the same test or a different nationally standardized achievement test selected by the parent from a list of approved tests supplied by the state board.

(II) If evaluation results submitted to the appropriate school district pursuant to the provisions of paragraph (f) of subsection (3) of this section show that the child is making sufficient academic progress according to the child's ability, the child will continue to be

exempt from the compulsory school attendance requirement of this article. If the evaluation results show that the child is not making sufficient academic progress, the school district shall require the child's parents to place the child in a public or independent or parochial school until the next testing period.

(b) If the child's test or evaluation results are submitted to an independent or parochial school, said school shall notify the school district that received the notification pursuant to paragraph (e) of subsection (3) of this section if the composite score on said test was at or below the thirteenth percentile or if the evaluation results show that the child is not making sufficient academic progress. The school district shall then require the parents to proceed in the manner specified in paragraph (a) of this subsection (5).

(6) (a) If a child is participating in a nonpublic home-based educational program but also attending a public school for a portion of the school day, the school district of the public school shall be entitled to count such child in accordance with the provisions of section 22-54-103 (10) for purposes of determining pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title.

(b) (I) For purposes of this subsection (6), a child who is participating in a nonpublic home-based educational program shall have the same rights as a student enrolled in a public school of the school district in which the child resides or is enrolled and may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school or offered by a private school, at the private school's discretion, as provided in section 22-32-116.5 and is subject to the same rules of any interscholastic organization or association of which the student's school of participation is a member.

(II) (A) Except as provided for in sub-subparagraph (B) of this subparagraph (II), for purposes of section 22-32-116.5, the school district of attendance for a child who is participating in a nonpublic home-based educational program shall be deemed to be the school district that received the notification pursuant to paragraph (e) of subsection (3) of this section.

(B) For purposes of section 22-32-116.5, the school district of attendance for a child who withdraws from a public or private school more than fifteen days after the start of the school year and enters a non-public home-based educational program shall be the school district or private school from which the child withdrew for the remainder of that school year. If, during the remainder of that academic year, the child chooses to participate in extracurricular or interscholastic activities at the same school and was eligible for participation prior to withdrawing from the school, the child remains eligible to participate at such school.

(c) No child participating in an extracurricular or interscholastic activity pursuant to paragraph (b) of this subsection (6) shall be considered attending the public school district where the child participates in such activity for purposes of determining pupil enrollment under paragraph (a) of this subsection (6).

(d) As used in this subsection (6), "extracurricular or interscholastic activities" shall have the same meaning as "activity" as set forth in section 22-32-116.5 (10).

(e) If any fee is collected pursuant to this subsection (6) for participation in an activity, the fee shall be used to fund the particular activity for which it is charged and shall not be expended for any other purpose.

**Source: L. 88:** (6) amended, p. 812, § 12, effective May 24; entire section added, p. 766, § 1, effective July 1. **L. 93:** (6) amended, p. 457, § 2, effective April 19. **L. 94:** (2)(c) added and (3)(e), (3)(f), and (5) amended, p. 618, §§ 1, 2, effective April 14; (3)(b), IP(6)(b), (6)(b)(II), and (6)(b)(V) amended, p. 677, § 2, effective April 19; (6)(a) amended, p. 813, § 29, effective April 27; (6)(e) added, p. 1283, § 8, effective May 22; (6)(b) and (6)(c) amended and (6)(d) added, p. 2837, § 2, effective June 7. **L. 96:** (6)(b) and (6)(d) amended, p. 1022, § 2, effective May 23. **L. 2000:** (3)(b), (3)(e), (3)(f), (3)(g), (4), (5), (6)(a), and (6)(b) amended, p. 369, § 22, effective April 10; (2)(c) and (3)(a) amended, p. 1857, § 61, effective August 2. **L. 2001:** (3)(b), (3)(f), (4), and (6)(b)(I) amended, p. 1494, § 17, effective June 8. **L. 2006:** (3)(e) amended, p. 1213, § 4, effective July 1, 2007. **L. 2007:** (3)(e) amended, p. 71, § 2, effective July 1, 2008. **L. 2009:** (3)(f) amended, (SB 09-163), ch. 293, p. 1543, § 47, effective May 21.



**Editor's note:** Subsection (6)(d) was numbered as subsection (6)(f) in House Bill 94-1094 but was renumbered on revision for ease of location.

**Cross references:** (1) For further provisions concerning student participation in interscholastic activities in a school in which they do not attend, see § 22-32-116.5.

(2) For the legislative declaration contained in the 2006 act amending subsection (3)(e), see section 1 of chapter 265, Session Laws of Colorado 2006.

#### **22-33-104.6. On-line program - legislative declaration - authorized - definitions. (Repealed)**

**Source:** **L. 98:** Entire section added, p. 655, § 2, effective August 5. **L. 2002:** (2)(b), (2)(d), IP(3), (3)(d), (3)(e)(II), (3)(g), (3)(h), and IP(4)(a) amended and (5) added, p. 1746, § 20, effective June 7. **L. 2003:** (2)(b.5), (2)(c.5), (4.5), (6), and (7) added and (3)(a), (4)(a), and (5)(b) amended, pp. 2130, 2128, §§ 22, 21, effective May 22. **L. 2006:** (4)(a)(II) amended and (4)(a)(III) added, p. 1212, § 3, effective July 1, 2007. **L. 2007:** (6)(a) amended, p. 744, § 26, effective May 9; entire section repealed, p. 1084, § 2, effective July 1.

**Cross references:** For current provisions concerning on-line education programs, see article 30.7 of this title.

**22-33-104.7. Eligibility for the general educational development tests.** Any child sixteen years of age who submits written evidence of a need to take the GED to be eligible for an educational or vocational program shall be eligible to sit for the GED after complying with all statutory and regulatory requirements in regard to GED testing.

**Source:** **L. 92:** Entire section added, p. 476, § 2, effective April 24.

**22-33-105. Suspension, expulsion, and denial of admission.** (1) No child who has attained the age of six years and is under the age of twenty-one shall be suspended or expelled from or be denied admission to the public schools, except as provided by this article.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section 22-33-106 (1) (a), (1) (b), (1) (c), or (1) (e) or not more than ten school days on the grounds stated in section 22-33-106 (1) (d), unless expulsion is mandatory pursuant to such provision;

(b) Suspend, on the grounds stated in section 22-33-106, a pupil from school for not more than another ten school days, or may delegate such power to its executive officer; except that the latter may extend a suspension to an additional ten school days if necessary in order to present the matter to the next meeting of the board of education, but the total period of suspension pursuant to this paragraph (b) and paragraph (a) of this subsection (2) shall not exceed twenty-five school days; and

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission

or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

(2.5) Each board of education shall annually report to the state board the number of students expelled from schools within the district pursuant to this section and pursuant to section 25-4-907, C.R.S. Any pupil who is expelled pursuant to this section shall not be included in calculating the dropout rate for the school from which such student is expelled or in calculating the dropout rate for the school district in which such pupil was enrolled prior to being expelled.

(3) (a) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of the pupil that the pupil has been suspended and of the grounds for the suspension, the period of the suspension, and the time and place for the parent, guardian, or legal custodian to meet with the suspending authority to review the suspension.

(b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(I) Be required to leave the school building and the school grounds immediately, following a determination by the parent, guardian, or legal custodian and the school of the best way to transfer custody of the pupil to the parent, guardian, or legal custodian; and

(II) Not be readmitted to a public school until a meeting between the parent, guardian, or legal custodian and the suspending authority has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit the pupil. The meeting shall address whether there is a need to develop a remedial discipline plan for the pupil in an effort to prevent further disciplinary action.

(c) A pupil suspended for a period of ten days or less shall receive an informal hearing by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable. Any pupil suspended for more than ten days shall be given the opportunity to request a review of the suspension before an appropriate official of the school district.

(d) The suspending authority shall:

(I) Make every reasonable effort to meet with the parent, guardian, or legal custodian of the pupil during the period of suspension;

(II) Not extend a period of suspension because of the failure of the suspending authority to meet with the parent, guardian, or legal custodian during the period of suspension;

(III) Provide an opportunity for a pupil to make up school work during the period of suspension for full or partial academic credit to the extent possible. The intent of this provision is to provide an opportunity for the pupil to reintegrate into the educational program of the district and to help prevent the pupil from dropping out of school because of an inability to reintegrate into the educational program following the period of suspension. The school district should take this intent into consideration when determining the amount of credit a student will receive for this makeup work.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian,



or legal custodian does not agree to attend class with the pupil or fails to attend class with the pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4) (h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program or on-line school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

(c) No court which has jurisdiction over the charges against a student who is subject to the provisions of this subsection (5) shall issue an order requiring the student to be educated in the education program in the school in contradiction of the provisions of this subsection (5).

(6) When a pupil is expelled by a school district, the pupil's parent, guardian, or legal custodian is responsible for seeing that the pupil complies with the provisions of this article during the period of expulsion.

(7) Notwithstanding any other provision of this part 1 to the contrary:

(a) An institute charter school authorized pursuant to part 5 of article 30.5 of this title may carry out the functions of a suspending authority pursuant to this section; and

(b) The state charter school institute created in part 5 of article 30.5 of this title may carry out the functions of a school district and its board of education with respect to the suspension, expulsion, or denial of admission of a student to an institute charter school.

**Source:** L. 63: p. 863, § 6. C.R.S. 1963: § 123-20-6. L. 75: (2)(a) amended, p. 702, § 1, effective July 1. L. 79: (3) added, p. 786, § 1, effective July 1. L. 93: (2.5) added, p. 379, § 2, effective April 12; (2)(a) and (2)(c) amended, p. 458, § 3, effective April 19; (3) amended and (4) to (6) added, p. 451, § 3, effective July 1. L. 94: (2)(c) amended, p. 446, § 1, effective July 1. L. 96: (2)(b), (3), (5)(a), and (5)(b) amended, p. 1804, § 2, effective July 1; (5)(a) amended, p. 1174, § 12, effective January 1, 1997. L. 97: (2.5) amended, p. 410, § 4, effective July 1. L. 98: (5)(a) amended, p. 657, § 3, effective August 5. L. 2000:

(5)(a) amended, p. 321, § 11, effective April 7. **L. 2002:** (5)(a) amended, p. 1188, § 29, effective July 1; (5)(a) amended, p. 1528, § 233, effective October 1. **L. 2004:** (7) added, p. 1636, § 40, effective July 1. **L. 2007:** (5)(a) amended, p. 1089, § 16, effective July 1. **L. 2012:** (2)(c), (3)(d)(III), and (6) amended, (HB 12-1345), ch. 188, p. 740, § 25, effective May 19; (5)(a) amended, (HB 12-1240), ch. 258, p. 1330, § 45, effective June 4.

**Editor's note:** Amendments to subsection (5)(a) in House Bill 96-1203 and House Bill 96-1017 were harmonized, effective January 1, 1997. Amendments to subsection (5)(a) by House Bill 02-1046 and Senate Bill 02-010 were harmonized.

**Cross references:** (1) For the legislative declaration contained in the 2002 act amending subsection (5)(a), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in the 2012 act amending subsections (2)(c), (3)(d)(III), and (6), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

## ANNOTATION

**Law reviews.** For comment, "The Rights of Handicapped Students in Disciplinary Proceedings by Public School Authorities", see 53 U. Colo. L. Rev. 367 (1982). For comment, "Setting Boundaries for Student Due Process: Rustad v. United States Air Force and the Right to Counsel in Disciplinary Dismissal Proceedings," see 62 Den. U. L. Rev. 109 (1985).

**Statutory procedures for temporary suspension held constitutional.** The statutory procedures for temporary suspension are not a denial of procedural due process and their application did not deprive the plaintiffs of the procedural due process required by the federal constitution. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**A school board may delegate to a school principal the power to suspend a pupil for not more than five school days for willful disobedience or open and persistent defiance of proper authority or behavior which is inimical to the welfare, safety, or morals of other pupils.** *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**Power may be delegated to the superintendent of schools.** The school board is authorized to delegate to the superintendent of schools the power to extend the suspension for not to exceed an additional 20 school days. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**Expulsion from or denial of admission to school attendance, beyond the temporary**

**suspension period, shall not be made without a hearing if one is requested** by the parent of the child, with the right of the parent to judicial review of the decision of the board by the appropriate juvenile court. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**A student can be deprived of an opportunity to attend a public school without an opportunity for a fair hearing.** The requirements of procedural due process cannot be construed to give, prior to suspension, the right to be heard, notice of the reason for the proposed governmental action, and an opportunity to confront adverse witnesses and present one's own arguments and evidence to an impartial decision maker. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**Suspension period held reasonable.** There is no evidence that the suspension period provided in this section is an unreasonable time to allow the principal and superintendent to attempt to resolve problems of discipline and behavior which is inimical to the welfare, safety, or morals of other pupils, before resorting to expulsions. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**School district is not allowed to isolate potential witnesses from the student,** even though this section does not explicitly provide for compulsion of witnesses. *Nichols ex rel. Nichols v. DeStefano*, 70 P.3d 505 (Colo. App. 2002), *aff'd* by operation of law, 84 P.3d 496 (Colo. 2004).

**22-33-106. Grounds for suspension, expulsion, and denial of admission.** (1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

- (a) Continued willful disobedience or open and persistent defiance of proper authority;
- (b) Willful destruction or defacing of school property;
- (c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm



to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section 22-20-103 (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individualized education program to amend his or her program as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(c.5) (I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5) and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

(IV) (Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7151, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year; except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

(2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

(3) The following may constitute additional grounds for denial of admission to a public school:

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1) (b), C.R.S., to obtain such information.



(e) (I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

**Source:** **L. 63:** p. 864, § 7. **C.R.S. 1963:** § 123-20-7. **L. 73:** p. 1280 § 2. **L. 78:** (3)(e) added, p. 429, § 2, effective April 4. **L. 79:** (2) amended, p. 788, § 1, effective June 16; (1)(c) amended, p. 787, § 1, effective July 1; (3)(a) amended, p. 789, § 1, effective July 1. **L. 84:** (1)(d) amended, p. 598, § 3, effective April 5. **L. 93:** (1)(c), (1)(d), and (3)(c) amended and (1)(e) and (3)(f) added, p. 459, §§ 4, 5, effective April 19; (1)(c) amended, p. 2111, § 1, effective June 9; (1)(c.5) added and (1)(d) amended, p. 453, § 5, effective July 1. **L. 94:** (3)(d) amended, p. 560, § 6, effective April 6; (1)(c) amended, p. 1633, § 40, effective May 31; (1)(d) amended, p. 447, § 2, effective July 1. **L. 96:** (1)(c.5) and (1)(d) amended, p. 1806, § 3, effective July 1. **L. 98:** (1)(d)(II)(A) amended and (1)(d)(III) added, p. 460, § 1, effective April 21; (1)(c.5)(IV) amended, p. 572, § 7, effective April 30. **L. 99:** (4) added, p. 394, § 1, effective July 1. **L. 2000:** (1)(c.5) amended, p. 1971, § 12, effective June 2. **L. 2007:** (1)(c) amended, p. 1568, § 14, effective May 31. **L. 2009:** (1)(d)(II)(A) amended and (1)(f) added, (SB 09-237), ch. 154, p. 666, §§ 1, 2, effective April 21; (1)(c.5)(I) and (1)(c.5)(III) amended, (HB 09-1243), ch. 290, p. 1424, § 4, effective May 21. **L. 2010:** (1)(c.5)(II) amended, (HB 10-1232), ch. 163, p. 571, § 8, effective April 28; (1)(c) amended, (HB 10-1422), ch. 419, p. 2077, § 43, effective August 11. **L. 2012:** IP(1), (1)(c.5)(I), (1)(c.5)(II), (1)(c.5)(III), (1)(d), IP(2), IP(3), (4)(a), and (4)(b)(I) amended and (1)(g), (1.2), and (1.5) added, (HB 12-1345), ch. 188, p. 741, § 26, effective May 19; (1)(d)(I) amended, (HB 12-1311), ch. 281, p. 1626, § 65, effective July 1.

**Editor's note:** Amendments to subsection (1)(c) in Senate Bill 93-140 and House Bill 93-1095 were harmonized. Amendments to subsection (1)(d) in Senate Bill 93-140 and House Bill 93-1093 were harmonized. Amendments to subsection (1)(d) by House Bill 12-1311 and House Bill 12-1345 were harmonized.

**Cross references:** (1) For the legislative declaration in the 2012 act amending the introductory portion to subsection (1), subsections (1)(c.5)(I), (1)(c.5)(II), (1)(c.5)(III), and (1)(d), the introductory portions to subsections (2) and (3), and subsections (4)(a) and (4)(b)(I) and adding subsections (1)(g), (1.2), and (1.5), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

## ANNOTATION

**Law reviews.** For note, "The Right to Dress and Go to School", see 37 U. Colo. L. Rev. 493 (1965). For comment, "The Rights of Handicapped Students in Disciplinary Proceedings by Public School Authorities", see 53 U. Colo. L. Rev. 367 (1982). For comment, "Warning Bell: The Inherent Difficulties of Responding to Student-on-Student Sexual Harassment in Colorado Middle Schools", see 76 U. Colo. L. Rev. 813 (2005).

**Subsection (1)(c) is not vague and overbroad** and does afford notice of the type of

conduct which is proscribed; therefore, it is constitutional on its face. *People in Interest of K.P.*, 182 Colo. 409, 514 P.2d 1131 (1973).

In subsection (1)(c) the general assembly has provided factors in sufficiently clear and definite language to apprise students of the type of conduct which is prohibited. *People in Interest of K.P.*, 182 Colo. 409, 514 P.2d 1131 (1973).

**Standard of conduct in subsection (1)(c) distinguished from comparable, void statutory language.** The standard of conduct set forth in subsection (1)(c) is distinguishable in

two decisive respects from comparable statutory language which has been held to be void. First, the subsection focuses its prohibition only on conduct which is directed toward other pupils — a narrowed class of individuals. Second, the conduct proscribed is strictly limited to conduct which is hostile to welfare, safety, or morals and could not be utilized to prohibit all forms of socially unacceptable conduct. People in Interest of K.P., 182 Colo. 409, 514 P.2d 1131 (1973).

**Suspension for wearing black berets was not a violation of first amendment rights** to free expression under the federal constitution where conduct by the students in class and out materially disrupted class work and involved substantial disorder or invasion of the rights of others. *Hernandez v. Sch. Dist. No. 1*, 315 F. Supp. 289 (D. Colo. 1970).

**Student's expulsion hearing for violation of subsection (1)(c) held procedurally proper.** People in Interest of K.P., 182 Colo. 409, 514 P.2d 1131 (1973).

**Evidence of plaintiff's character and other behavior was relevant to determine whether expulsion was warranted under the circumstances.** Expulsion for fighting is not mandatory under this section, so the school district had discretion to determine whether expulsion or a lesser sanction was appropriate. *Nichols ex rel. Nichols v. DeStefano*, 70 P.3d 505 (Colo. App. 2002), *aff'd* by operation of law, 84 P.3d 496 (Colo. 2004).

**Applied in** *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

### **22-33-106.3. Disciplinary investigations - parental presence - student statements.**

(1) A public school employee shall not use a student's statement concerning an act alleged to have been committed by the student that results in mandatory expulsion pursuant to section 22-33-106 (1) (d), in the expulsion hearing, unless the statement is signed by the student and a parent, guardian, or legal or physical custodian is present when the student signs the statement or admission or a reasonable attempt was made to contact the parent, guardian, or legal or physical custodian to have the parent, guardian, or legal or physical custodian present when the student signed the statement. The school shall be deemed to have made a reasonable attempt to contact the parent, guardian, or legal or physical custodian if the school calls each of the phone numbers the parent, guardian, or legal or physical custodian provides to the school and all phone numbers the student provides to the school for the parent, guardian, or legal or physical custodian.

(2) Notwithstanding the provisions of subsection (1) of this section, the student and his or her parent, guardian, or legal or physical custodian may expressly waive the requirement that the parent, guardian, or legal or physical custodian be present when a student signs a statement or admission. This express waiver shall be in writing and shall be obtained only after full advisement of the student and his or her parent, guardian, or legal or physical custodian of the student's rights prior to the signing of the statement or admission by the student.

(3) The requirements of subsection (1) of this section shall not apply if the student makes any deliberate misrepresentations affecting the applicability or requirements of this section and a school official, acting in good faith and in reasonable reliance on such deliberate misrepresentation, obtains a signed statement or admission of the student that does not comply with the requirements of subsection (1) of this section.

(4) Nothing in this section shall be construed to prevent or interfere with a fact-finding or information-gathering investigation by a school or school employee.

(5) For the purposes of this section, "physical custodian" shall have the same meaning as that term is defined in section 19-1-103 (84), C.R.S.

**Source: L. 2004:** Entire section added, p. 272, § 1, effective August 4.

**22-33-106.5. Information concerning offenses committed by students.** (1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1) (d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

(2) Upon adjudication or conviction of a person under the age of eighteen years for an offense that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., or for



an offense involving controlled substances, or, for a person under eighteen years of age but at least twelve years of age, for an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult the adjudicating or convicting court shall notify the school district in which the person is enrolled of the person's adjudication or conviction.

**Source:** **L. 96:** Entire section added, p. 432, § 3, effective April 22. **L. 2000:** (2) amended, p. 322, § 12, effective April 7. **L. 2002:** (2) amended, p. 1189, § 30, effective July 1; (2) amended, p. 1528, § 234, effective October 1.

**Editor's note:** Amendments to subsection (2) by House Bill 02-1046 and Senate Bill 02-010 were harmonized.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of Colorado 2002.

**22-33-107. Enforcement of compulsory school attendance.** (1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district, or in cooperation with any court of record in the county, the probation officer of that court may be appointed the attendance officer. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(3) (a) As used in this subsection (3), a child who is "habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years having four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year. Absences due to suspension or expulsion of a child shall be considered excused absences for purposes of this subsection (3).

(b) The board of education of each school district shall adopt and implement policies and procedures concerning children who are habitually truant. The policies and procedures shall include provisions for the development of a plan. The plan shall be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The policies and procedures may also include but need not be limited to the following:

(I) (Deleted by amendment, L. 96, p. 1808, § 4, effective July 1, 1996.)

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with

respect to any judicial proceeding which results from such notice or failure to give such notice.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of students identified as habitually truant, as defined in paragraph (a) of subsection (3) of this section, for the preceding academic year. The department shall post this information for each school district on its web site for the public to access and may post additional information reported by school districts related to truancy.

(5) The department of education may post on its web site information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

**Source:** **L. 63:** p. 864, § 8. **C.R.S. 1963:** § 123-20-8. **L. 84:** (1) amended, p. 601, § 1, effective April 5. **L. 93:** (3) added, p. 460, § 6, effective April 19. **L. 96:** IP(3)(b) and (3)(b)(I) amended, p. 1808, § 4, effective July 1. **L. 2006:** (3)(a) amended, p. 1213, § 5, effective July 1, 2007. **L. 2007:** (3)(a) amended, p. 71, § 3, effective July 1, 2008. **L. 2008:** (4) and (5) added, p. 517, § 2, effective August 5.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (3)(a), see section 1 of chapter 265, Session Laws of Colorado 2006.

#### **22-33-107.1. Parental notice of dropout status. (Repealed)**

**Source:** **L. 2005:** Entire section added, p. 393, § 1, effective April 27. **L. 2009:** Entire section repealed, (HB 09-1243), ch. 290, p. 1424, § 5, effective May 21.

**Cross references:** For current provisions concerning notice to parent of dropout status, see § 22-14-108.

**22-33-107.5. Notice of failure to attend.** (1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day, where the school district has received notice from the court or parole board:

(a) Pursuant to section 19-2-508 (3) (a) (VI), C.R.S., that the student is required to attend school as a condition of release pending an adjudicatory trial;

(b) Pursuant to section 17-22.5-404, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (5), or 19-2-1002 (1) or (3), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or

(c) Pursuant to section 13-10-113 (8), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by a municipal court.

(2) If the school district has notice that a student who is required to attend school as a condition of release or as a condition of or in connection with any sentence imposed by a court, including a condition of probation or parole, has enrolled in a nonpublic home-based educational program, pursuant to section 22-33-104.5, or in an independent or parochial school, the school district shall notify the appropriate court or parole board and shall no longer be required to notify the court or parole board, pursuant to subsection (1) of this section, if the student fails to attend.

**Source:** **L. 96:** Entire section added, p. 1683, § 11, effective January 1, 1997. **L. 99:** Entire section amended, p. 62, § 6, effective July 1. **L. 2000:** (1) amended, p. 322, § 13, effective April 7. **L. 2002:** (1)(b) amended, p. 1528, § 235, effective October 1. **L. 2010:** (1)(b) amended, (HB 10-1374), ch. 261, p. 1187, § 8, effective May 25.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (1)(b), see section 2 of chapter 318, Session Laws of Colorado 2002.



**22-33-108. Judicial proceedings.** (1) Those courts having jurisdiction over juvenile matters in a judicial district shall have original jurisdiction over all matters arising out of the provisions of this article.

(1.5) (a) All proceedings brought under this article shall be commenced in the judicial district in which the child resides or is present.

(b) When proceedings commence under this article in a judicial district other than that of the child's residence or when the child changes his or her judicial district of residence after a proceeding under this article commences, the court in which proceedings commenced may, on its own motion or on the motion of any interested party, transfer the case to the court in the judicial district where the child resides.

(c) When a court transfers venue pursuant to paragraph (b) of this subsection (1.5), the court shall transmit all documents and reports, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed in that court.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5) As a last-resort approach for addressing the problem of truancy, to be used only after a school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent, court proceedings shall be initiated to compel compliance with the compulsory attendance statute after the parent and the child have been given written notice by the attendance officer of the school district or of the state that proceedings will be initiated if the child does not comply with the provisions of this article. The school district may combine the notice and summons. If combined, the petition shall state the date on which proceedings will be initiated, which date shall not be less than five days from the date of the notice and summons. The notice shall state the provisions of this article with which compliance is required and shall state that the proceedings will not be brought if the child complies with that provision before the filing of the proceeding.

(6) In the discretion of the court before which a proceeding to compel attendance is brought, an order may be issued against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to assure the child's attendance. The order may require the child or parent or both to follow an appropriate treatment plan that addresses problems affecting the child's school attendance and that ensures the child has an opportunity to obtain a quality education.

(7) (a) If the child does not comply with the valid court order issued against the child or against both the parent and the child, the court may order that an investigation be conducted as provided in section 19-2-510 (2), C.R.S., and the court may order the child to show cause why he or she should not be held in contempt of court. The court may include as a sanction after a finding of contempt an appropriate treatment plan that may include, but need not be limited to, community service to be performed by the child, supervised

activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having goals that shall ensure that the child has an opportunity to obtain a quality education.

(b) The court may impose on the child as a sanction for contempt of court a sentence to incarceration to any juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402, C.R.S., and any rules promulgated by the Colorado supreme court.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

**Source:** L. 63: p. 865, § 9. C.R.S. 1963: § 123-20-9. L. 67: p. 1054, § 15. L. 81: (5) and (7) amended, p. 1066, § 1, effective May 27. L. 84: (4) and (8) amended, p. 601, § 2, effective July 1. L. 87: (5) and (7) amended, p. 829, § 2, effective July 1. L. 90: (7) amended, p. 1019, § 7, effective April 20; (7) amended, p. 1847, § 40, effective May 31. L. 94: (1.5) added, p. 677, § 1, effective April 19; (3) amended, p. 447, § 3, effective July 1; (7) amended, p. 2691, § 221, effective July 1. L. 96: (7) amended, p. 1693, § 31, effective January 1, 1997. L. 97: (6) to (8) amended, p. 41, § 2, effective July 1. L. 2001: (1) and (1.5) amended, p. 871, § 3, effective June 1. L. 2002: (7) amended, p. 248, § 1, effective April 12. L. 2006: (3) amended, p. 257, § 4, effective March 31. L. 2007: (4) amended, p. 165, § 4, effective March 22. L. 2011: (5) and (7)(a) amended, (HB 11-1053), ch. 58, p. 154, § 2, effective March 25.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (7), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2011 act amending subsections (5) and (7)(a), see section 1 of chapter 58, Session Laws of Colorado 2011.

#### ANNOTATION

**Held unconstitutional.** Statute precluding the court from incarcerating a child in a secure facility for contempt in a compulsory school attendance case violates the separation of powers doctrine of the Colorado constitution by impermissibly abrogating the judiciary's power to incarcerate juveniles for contempt of court orders. In *Interest of J.E.S.*, 817 P.2d 508 (Colo. 1991).

**The power to review due process claims is inherent** in the district court's authority to re-

view the board's determinations for an abuse of discretion. *Nichols ex rel. Nichols v. DeStefano*, 70 P.3d 505 (Colo. App. 2002), *aff'd* by operation of law, 84 P.3d 496 (Colo. 2004).

**Upon a review of the totality of the circumstances at the hearing**, plaintiff was unable to present effectively all relevant evidence and challenge the evidence offered against said plaintiff. *Nichols ex rel. Nichols v. DeStefano*, 70 P.3d 505 (Colo. App. 2002), *aff'd* by operation of law, 84 P.3d 496 (Colo. 2004).

**22-33-109. Regulations.** The state board may prescribe necessary rules and regulations for the administration of this article.

**Source:** L. 63: p. 866, § 10. C.R.S. 1963: § 123-20-10.

#### ANNOTATION

**A hearing is required under this section only where a student's education is interrupted.** Thus, a school district did not violate the provisions of this section by reassigning students who attended a school dance after con-

suming alcohol to another school without holding an evidentiary hearing prior to the transfer. *Martinez v. Sch. District No. 60*, 852 P.2d 1275 (Colo. App. 1992).



**22-33-110. Jurisdiction - board of education.** Nothing in this article, except for the provisions of section 22-33-104 (2) (b) and the attendance records required under section 22-1-114, shall be construed to give the state board of education or any board of education jurisdiction over the internal affairs of any nonstate independent or parochial school in this state.

**Source: L. 83:** Entire section added, p. 755, § 2, effective June 3.

**22-33-111. School discipline study - legislative declaration - task force appointed - report - repeal. (Repealed)**

**Source: L. 2011:** Entire section added, (SB 11-133), ch. 210, p. 908, § 1, effective May 23.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2012. (See L. 2011, p. 908.)

## PART 2

### EXPULSION PREVENTION PROGRAMS

**22-33-201. Legislative declaration.** The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid mandatory expulsion.

**Source: L. 96:** Entire part added, p. 432, § 4, effective April 22. **L. 2000:** Entire part amended, p. 1966, § 11, effective June 2.

**22-33-201.5. Definitions.** For purposes of this part 2, unless the context otherwise requires:

(1) "Educational services" means any of the following types of services to provide instruction in the academic areas of reading, writing, mathematics, science, and social studies:

- (a) Tutoring services;
- (b) Alternative educational programs;
- (c) Vocational education programs.

(2) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

**Source: L. 98:** Entire section added, p. 568, § 1, effective April 30. **L. 2000:** Entire part amended, p. 1966, § 11, effective June 2. **L. 2008:** Entire section amended, p. 1399, § 38, effective May 27.

**22-33-202. Identification of at-risk students.** (1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may

provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

**Source:** L. 96: Entire part added, p. 432, § 4, effective April 22. L. 2000: Entire part amended, p. 1966, § 11, effective June 2. L. 2008: (1) amended, p. 518, § 3, effective August 5.

**22-33-203. Educational alternatives for expelled students.** (1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion. If the parent or guardian chooses to provide a home-based educational program for the student, the school district shall assist the parent in obtaining appropriate curricula for the student if requested by the parent or guardian.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district. The educational services provided shall be designed to enable the student to return to the school in which he or she was enrolled prior to expulsion, to successfully complete the GED, or to enroll in a nonpublic, nonparochial school or in an alternative school, including but not limited to a charter school or a pilot school established pursuant to article 38 of this title. The expelling school district shall determine the amount of credit the student shall receive toward graduation for the educational services provided pursuant to this section.

(b) The educational services provided pursuant to this section are designed to provide a second chance for the student to succeed in achieving an education. While receiving educational services, a student may be suspended or expelled pursuant to the conduct and discipline code of the school district providing the educational services and the provisions of part 1 of this article. Except as required by federal law, the expelling school district is not required to provide educational services to any student who is suspended or expelled while receiving educational services pursuant to this section until the period of the suspension or expulsion is completed.

(c) (1) Educational services provided pursuant to this section shall be provided by the expelling school district; except that the expelling school district may provide educational services either directly or in cooperation with one or more other school districts, boards of cooperative services, charter schools, nonpublic, nonparochial schools, or pilot schools established pursuant to article 38 of this title under contract with the expelling school district. Any program of educational services provided by a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107.

(II) Educational services may be provided by the school district through agreements entered into pursuant to section 22-33-204. The expelling school district need not provide the educational services on school district property. Any expelled student receiving educational services shall be included in the expelling school district's pupil enrollment as defined in section 22-54-103 (10).

(d) If an expelled student is receiving educational services delivered by a school district other than the expelling school district, by a charter school in a school district other than the expelling school district, by a board of cooperative services, by a nonpublic, nonparochial school, or by a pilot school pursuant to an agreement entered into pursuant to subparagraph



(I) of paragraph (c) of this subsection (2), the expelling school district shall transfer ninety-five percent of the district per pupil revenues, as defined in section 22-30.5-112 (2) (a.5) (II) to the school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services, reduced in proportion to the amount of time remaining in the school year at the time the student begins receiving educational services.

(e) Any school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services to expelled students pursuant to this subsection (2) may apply for moneys through the expelled student services grant program established in section 22-33-205 to assist in providing educational services.

(3) If a student is expelled and the student is not receiving educational services pursuant to this section, the school district shall contact the expelled student's parent or guardian at least once every sixty days until the beginning of the next school year to determine whether the student is receiving educational services from some other source; except that the school district need not contact a student's parent or guardian after the student is enrolled in another school district or in an independent or parochial school or if the student is committed to the department of human services or is sentenced pursuant to article 2 of title 19, C.R.S.

(4) In addition to the educational services required under this section, a student who is at risk of suspension or expulsion or has been suspended or expelled, or the student's parent or guardian, may request any of the services provided by the school district through an agreement entered into pursuant to section 22-33-204, and the school district may provide such services.

**Source:** **L. 96:** Entire part added, p. 433, § 4, effective April 22. **L. 97:** (2) amended, p. 589, § 24, effective April 30. **L. 98:** (2) and (3) amended and (4) added, p. 568, § 2, effective April 30. **L. 2000:** Entire part amended, p. 1967, § 11, effective June 2. **L. 2012:** (2)(b) and (3) amended, (HB 12-1345), ch. 188, p. 749, § 41, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsections (2)(b) and (3), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

**22-33-204. Services for at-risk students - agreements with state agencies and community organizations.** (1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including but not limited to the department of human services and the department of public health and environment, with community-based nonprofit and faith-based organizations, with nonpublic, nonparochial schools, with the department of military and veterans affairs, and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family. Any services provided pursuant to an agreement with a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107, C.R.S. Services provided through such agreements may include, but are not limited to:

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

(b) Counseling services;

(c) Drug or alcohol-addiction treatment programs;

(d) Family preservation services.

(e) and (f) (Deleted by amendment, L. 98, p. 570, § 3, effective April 30, 1998.)

(2) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement. In addition, each agreement shall require each entity entering into the agreement to contribute the services or funds for the provision of the services specified in the agreement. The agreement shall specify the services or the amount and source of funds that each entity will provide and the mechanism for providing said services or funds.

(3) Each school district shall use a portion of its per pupil revenues to provide services under agreements entered into pursuant to this section for each student who is at risk of suspension or expulsion or who is suspended or expelled. In addition, the school district may use federal moneys, moneys received from any other state appropriation, and moneys received from any other public or private grant to provide said services.

**Source:** **L. 96:** Entire part added, p. 433, § 4, effective April 22. **L. 98:** (1) amended, p. 570, § 3, effective April 30. **L. 2000:** Entire part amended, p. 1968, § 11, effective June 2. **L. 2002:** IP(1) amended, p. 355, § 7, effective July 1. **L. 2010:** (3) amended, (HB 10-1013), ch. 399, p. 1913, § 39, effective June 10.

**Cross references:** For the legislative declaration contained in the 2002 act amending the introductory portion to subsection (1), see section 1 of chapter 121, Session Laws of Colorado 2002.

**22-33-204.5. Legislative declaration.** The general assembly finds that a student who is placed in a residential child care facility or other facility licensed by the department of human services or in a hospital or who is receiving educational services through a day treatment center is, in most cases, dealing with significant behavioral and emotional issues. These issues make it difficult, if not impossible, for the student to function within a regular school and often severely impact the student's ability to participate in a facility school. The general assembly further finds that, although a student who is placed in a facility cannot be expelled due to the nature of the placement, the student is at risk of being unable to prosper academically and should be considered an at-risk student for purposes of section 22-33-205.

**Source:** **L. 2008:** Entire section added, p. 1399, § 39, effective May 27.

**22-33-205. Services for expelled and at-risk students - grants - criteria.**  
(1) (a) There is hereby established in the department of education the expelled and at-risk student services grant program, referred to in this section as the "program". The program shall provide grants to school districts, to charter schools, to alternative schools within school districts, to nonpublic, nonparochial schools, to boards of cooperative services, to facility schools, and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services, and other services provided pursuant to section 22-33-204, to expelled students pursuant to section 22-33-203 (2), to students at risk of expulsion as identified pursuant to section 22-33-202 (1), and to truant students.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

(c) Grants awarded pursuant to this section shall be paid for out of any moneys appropriated to the department of education for implementation of the program.



(2) (a) The state board by rule shall establish application procedures by which a school district, a charter school, an alternative school within a school district, a nonpublic, nonparochial school, a board of cooperative services, a facility school, or a pilot school may annually apply for a grant under the program. At a minimum, the application shall include a plan for provision of educational services, including the type of educational services to be provided, the estimated cost of providing such educational services, and the criteria that will be used to evaluate the effectiveness of the educational services provided.

(b) The state board shall determine which of the applicants shall receive grants and the amount of each grant. In awarding grants, the state board shall consider the following criteria:

(I) The costs incurred by the applicant in providing educational services to expelled or at-risk students pursuant to the provisions of this part 2 during the school year preceding the school year for which the grant is requested;

(II) (Deleted by amendment, L. 98, p. 570, § 4, effective April 30, 1998.)

(III) The number of expelled, at-risk, or truant students who are receiving educational services through the applicant under agreements entered into pursuant to the provisions of this part 2 during the school year preceding the year for which the grant is requested;

(IV) The quality of educational services to be provided by the applicant under the plan;

(V) The cost-effectiveness of the educational services to be provided under the plan;

(VI) The amount of funding received by the applicant in relation to the cost of the educational services provided under the plan; and

(VII) If the applicant is seeking to renew a grant or has been awarded a grant pursuant to this section in the previous five years, the demonstrated effectiveness of the educational services funded by the previous grant.

(3) The state board shall annually award at least forty-five percent of any moneys appropriated for the program to applicants that provide educational services to students from more than one school district and at least one-half of any increase in the appropriation for the program for the 2009-10 fiscal year to applicants that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings.

(4) The department of education is authorized to retain up to one percent of any moneys appropriated for the program for the purpose of annually evaluating the program. The department of education is authorized and encouraged to retain up to an additional two percent of any moneys appropriated for the program for the purpose of partnering with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings. On or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, or any successor committees, the evaluation findings on the outcomes and the effectiveness of the program related to school attendance, attachment, and achievement. The report shall also include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in truancy proceedings.

**Source:** L. 97: Entire section added, p. 590, § 25, effective April 30. L. 98: Entire section amended, p. 570, § 4, effective April 30; (1) amended, p. 976, § 24, effective May 27. L. 2000: Entire part amended, p. 1969, § 11, effective June 2. L. 2002: (1)(b) amended, p. 356, § 8, effective July 1. L. 2005: (4) added, p. 997, § 1, effective June 2.

**L. 2008:** (1)(a), (1)(b), (2)(a), and IP(2)(b) amended, p. 1399, § 40, effective May 27; (1)(a) and (2)(b)(III) amended, p. 518, § 4, effective August 5. **L. 2009:** (3) and (4) amended, (SB 09-256), ch. 294, p. 1558, § 18, effective May 21.

**Editor’s note:** Amendments to subsection (1)(a) by House Bill 08-1204 and House Bill 08-1336 were harmonized.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (1)(b), see section 1 of chapter 121, Session Laws of Colorado 2002.

ARTICLE 34

High School Fast Track Program

22-34-101. (Repealed)

**Source:** **L. 2009:** Entire article repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21.

**Editor’s note:** This article was added in 1981. For amendments to this article prior to its repeal in 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 35

Concurrent Enrollment Programs Act

**Editor’s note:** This article was added in 1988. This article was repealed and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

22-35-101.	Short title.	22-35-108.	Accelerating students through
22-35-102.	Legislative declaration.		concurrent enrollment pro-
22-35-103.	Definitions.		gram - objectives - selection
22-35-104.	Enrollment in an institution of		criteria - rules.
	higher education - coopera-	22-35-109.	Institution of higher education
	tive agreement.		- enrollment - limitations.
22-35-105.	Financial provisions - pay-	22-35-109.5.	Community colleges - drop-
	ment of tuition.		out recovery programs -
22-35-106.	Transportation.		definitions.
22-35-107.	Concurrent enrollment advi-	22-35-110.	Exclusions.
	sory board - created - mem-	22-35-111.	Rules.
	bership - duties - reports -	22-35-112.	Reports.
	repeal.		

**22-35-101. Short title.** This article shall be known and may be cited as the “Concurrent Enrollment Programs Act”.

**Source:** **L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1299, § 1, effective May 21.

**22-35-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Creating pathways between high schools and institutions of higher education is essential to fulfilling the Colorado promise of doubling the number of postsecondary



degrees earned by Coloradans and reducing by half the number of students who drop out of high schools in the state;

(b) Concurrent enrollment programs have the potential to help advance the vision for an aligned system of high school and postsecondary standards and assessments, as described in the “Preschool to Postsecondary Education Alignment Act”, part 10 of article 7 of this title;

(c) Concurrent enrollment programs have existed for many years but with little state coordination, limited attention to quality and consistency, and no accountability. As a result, access has been necessarily limited.

(d) Historically, the beneficiaries of concurrent enrollment programs have often been high-achieving students. The expanded mission of concurrent enrollment programs is to serve a wider range of students, particularly those who represent communities with historically low college participation rates.

(e) The state should improve teachers’, administrators’, and parents’ access to information concerning concurrent enrollment programs;

(f) The emerging economic reality is that a postsecondary credential of some kind is the minimum educational requirement for a job that earns a living wage in Colorado. In spite of this, the number of students in Colorado who earn a postsecondary credential is disproportionately low when compared to other states.

(g) All of the state’s high schools should eventually develop equitable access to concurrent enrollment programs to provide the infrastructure necessary to improve high school retention, to motivate young people to take seriously the need to become postsecondary- and workforce-ready, and to accelerate students’ progress toward a postsecondary credential.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for concurrent enrollment programs is a permissible use of the moneys in the state education fund because the moneys are being used for accountable school reform, for accountable programs to meet state academic standards, and for class size reduction.

(3) The general assembly further finds and declares its intention that the administrative costs incurred by the department of education in its implementation of the accelerating students through concurrent enrollment program created in section 22-35-108 shall be supported by federal funds available for government services pursuant to section 14002 of Title XIV of the federal “American Recovery and Reinvestment Act of 2009”, Public Law 111-5 of the one hundred eleventh United States Congress.

(4) Now, therefore, to broaden access to and improve the quality of concurrent enrollment programs, the general assembly concludes that it is appropriate and in the best interests of the state to support policies designed to improve coordination between institutions of secondary education and institutions of higher education and to ensure financial transparency and accountability.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1299, § 1, effective May 21.

**Editor’s note:** This section is similar to former § 22-35-102 as it existed prior to 2009.

**22-35-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “ASCENT program” means the accelerating students through concurrent enrollment program created in section 22-35-108.

(2) “Basic skills course” has the same meaning as set forth in section 23-1-113 (1) (b), C.R.S.

(3) “Board” means the concurrent enrollment advisory board created in section 22-35-107.

(4) “Board of cooperative services” or “BOCES” means a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(5) “Commission” means the Colorado commission on higher education created pursuant to section 23-1-102, C.R.S.

(6) (a) “Concurrent enrollment” means the simultaneous enrollment of a qualified student in a local education provider and in one or more postsecondary courses, including academic or career and technical education courses, at an institution of higher education pursuant to the provisions of this article.

(b) “Concurrent enrollment” does not include a student’s simultaneous enrollment in a local education provider and in one or more secondary career and technical education courses.

(7) “Cooperative agreement” means an agreement entered into by a local education provider and an institution of higher education pursuant to section 22-35-104 (6).

(8) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(9) “District charter school” means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title that serves any of grades nine through twelve.

(10) “Early college” means a secondary school that provides only a curriculum that is designed in a manner that ensures that a student who successfully completes the curriculum will have completed either an associate’s degree or sixty credits toward the completion of a postsecondary credential. “Early college” includes only the following:

(a) Dolores Huerta preparatory high school in Pueblo;

(b) Southwest early college charter high school in Denver;

(c) Front range early college in Denver;

(d) Colorado Springs early colleges in Colorado Springs;

(e) Early college high school in Arvada;

(f) A secondary school that satisfies the provisions of this subsection (10) and identifies itself as an “early college” on May 21, 2009; and

(g) A secondary school that is designated, after May 21, 2009, as an early college by the state board of education.

(11) “Institute charter school” means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title that serves any of grades nine through twelve.

(12) “Institution of higher education” means:

(a) A state university or college, community college, junior college, local district college, or area vocational school described in title 23, C.R.S.;

(a.5) A postsecondary career and technical education program; or

(b) An educational institution operating in this state that:

(I) Does not receive state general fund moneys in support of its operating costs;

(II) Admits as regular students only persons having a high school diploma or the recognized equivalent of such a certificate;

(III) Is accredited by a regional accrediting agency or association;

(IV) Provides an educational program for which it awards a bachelor’s degree or a graduate degree;

(V) Is authorized by the department of higher education to do business in Colorado pursuant to section 23-2-103.3, C.R.S.;

(VI) Maintains a physical campus or instructional facility in Colorado; and

(VII) Has been determined by the United States department of education to be eligible to administer federal financial aid programs pursuant to Title IV of the federal “Higher Education Act of 1965”, as amended.

(13) “Local education provider” means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(13.5) “Postsecondary career and technical education program” means a career and technical education program that offers postsecondary courses and is approved by the state board for community colleges and occupational education pursuant to section 23-8-103, C.R.S.

(14) “Postsecondary education” means all formal public education that requires as a prerequisite the acquisition of a high school diploma, its equivalent, or the achievement of a minimum score on a placement assessment that is administered by an institution of higher



education, which minimum score is determined by the institution. “Postsecondary education” includes programs resulting in the acquisition of a certificate, an associate degree of applied sciences, an associate degree of general studies, an associate degree of arts, or an associate degree of science and all baccalaureate degree programs.

(15) “Qualified student” means a person who is less than twenty-one years of age and is enrolled in the ninth grade or a higher grade level in a local education provider.

(16) “State board” means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** **L. 2009:** Entire article R&RE. (HB 09-1319), ch. 286, p. 1301, § 1, effective May 21; (6) and (12)(a) amended and (12)(a.5) and (13.5) added, (SB 09-285), ch. 425, pp. 2370, 2371, §§ 1, 2, effective June 4. **L. 2010:** (10)(f) amended, (HB 10-1422), ch. 419, p. 2077, § 44, effective August 11. **L. 2012:** (2) amended, (HB 12-1155), ch. 255, p. 1280, § 6, effective August 8.

**Cross references:** For the “Higher Education Act of 1965”, see Pub.L. 89-329, codified at 20 U.S.C. sec. 1001 et seq.

**22-35-104. Enrollment in an institution of higher education - cooperative agreement.** (1) (a) A qualified student enrolled in a high school of a school district who has applied to and received approval from the superintendent of the school district or his or her designee, or a qualified student enrolled in a district charter school, an institute charter school, or a high school of a BOCES who has applied to and received approval from the chief administrator of the district charter school, an institute charter school, or a high school of a BOCES, pursuant to subsection (2) of this section may register with and concurrently enroll in an institution of higher education in accordance with the provisions of this article.

(b) Each local education provider shall annually notify all students and parents or legal guardians of students enrolled in the local education provider of the opportunity for concurrent enrollment by qualified students in postsecondary courses, including academic courses and career and technical education courses.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (1), a qualified student shall not concurrently enroll in a basic skills course unless he or she is enrolled in the twelfth grade in a local education provider.

(d) Notwithstanding the provisions of paragraph (a) of this subsection (1), if a qualified student is not a participant in the ASCENT program and has not satisfied the minimum requirements for graduation established by his or her local education provider by the end of his or her twelfth-grade year and is therefore retained by the local education provider for additional instruction, the qualified student shall not concurrently enroll in postsecondary courses, including academic or career and technical education courses, that are worth more than a total of nine credit hours, including basic skills courses. Furthermore, the qualified student shall not concurrently enroll in more than:

(I) Six credit hours of postsecondary courses, including academic courses and career and technical education courses, in any academic semester if the student is registered as a full-time pupil in his or her local education provider; or

(II) Three credit hours of postsecondary courses, including academic courses and career and technical education courses, in any academic semester if the student is registered as a part-time pupil in his or her local education provider.

(e) Except as described in paragraphs (c) and (d) of this subsection (1) and sections 22-35-108 and 22-35-109, the state board by rule shall not limit the number of postsecondary courses, including academic courses and career and technical education courses, in which a qualified student may concurrently enroll during the ninth, tenth, eleventh, or twelfth grade.

(2) (a) (I) A qualified student enrolled in a high school of a school district who seeks to concurrently enroll in an institution of higher education shall apply to the superintendent of the student’s school district, or the superintendent’s designee, for approval of concurrent enrollment not later than sixty days before the end of the academic term that immediately

precedes the intended term of concurrent enrollment; except that a superintendent or superintendent's designee may waive the time limitation at his or her discretion.

(II) A qualified student enrolled in a district charter school, an institute charter school, or a high school of a BOCES who seeks to concurrently enroll in an institution of higher education shall apply to the chief administrator of the district charter school, institute charter school, or high school of a BOCES for approval of concurrent enrollment no later than sixty days before the end of the academic term that immediately precedes the intended term of concurrent enrollment; except that the chief administrator may waive the time limitation at his or her discretion.

(III) In applying for concurrent enrollment approval, a qualified student shall use the standard application form created and made publicly available by his or her local education provider pursuant to paragraph (c) of this subsection (2).

(b) If a superintendent of a school district, the superintendent's designee, or a chief administrator of a district charter school, institute charter school, or high school of a BOCES receives a timely application from a qualified student pursuant to paragraph (a) of this subsection (2), the superintendent, superintendent's designee, or chief administrator of a district charter school, institute charter school, or high school of a BOCES shall approve or disapprove the application and notify the student of the decision. In considering applications, the superintendent, designee, or chief administrator shall give priority consideration to qualified students who, by the time they would concurrently enroll, will have completed the high school graduation requirements and are applying for concurrent enrollment to begin earning credits toward a postsecondary degree or certificate or, if required to complete basic skills courses, to complete the courses during the remainder of the twelfth-grade year.

(c) On or before July 1, 2011, and thereafter, each local education provider that has entered into a cooperative agreement shall create and make publicly available a standard concurrent enrollment application form for use by a qualified student pursuant to this subsection (2). In creating the application form, the local education provider shall refer to the guidelines established by rules promulgated by the state board pursuant to section 22-35-111 (1) (a). The application form shall require, at a minimum, a qualified student to specify the courses in which he or she seeks to concurrently enroll.

(3) A qualified student who seeks to concurrently enroll in an institution of higher education shall establish, in consultation with the administration of his or her local education provider, an academic plan of study that describes all of the courses that the student intends to complete to satisfy his or her remaining requirements for graduation from the local education provider. Prior to the qualified student's concurrent enrollment in the institution of higher education, the principal, a counselor, or a teacher advisor of the qualified student's local education provider shall approve the academic plan of study. In approving an academic plan of study, a principal, counselor, or teacher advisor shall apply the guidelines established by rules promulgated by the state board pursuant to section 22-35-111 (1) (b).

(4) (a) A qualified student who intends to concurrently enroll in a postsecondary course, including an academic course or a career and technical education course, at an institution of higher education shall satisfy the minimum prerequisites for the course prior to his or her enrollment in the course.

(b) If a qualified student who has applied for concurrent enrollment in a postsecondary course, including an academic course or a career and technical education course, has not satisfied the minimum prerequisites for the course, he or she may concurrently enroll in a basic skills course at the institution only if:

(I) The qualified student is enrolled in the twelfth grade in a local education provider; and

(II) The institution of higher education offers the basic skills course pursuant to section 23-1-113.3, C.R.S.

(c) An institution of higher education that refuses to allow a qualified student to concurrently enroll in a course for which the student has not satisfied the minimum prerequisites may allow the student to concurrently enroll in another course for which the student appears to be prepared.



(5) A course successfully completed by a qualified student through concurrent enrollment at an institution of higher education shall count for credit toward the qualified student's high school graduation requirements at his or her local education provider.

(6) (a) A local education provider that seeks to allow students to concurrently enroll in postsecondary courses, including academic courses and career and technical education courses, at an institution of higher education shall enter into a cooperative agreement with the institution of higher education.

(b) A cooperative agreement shall include, but need not be limited to:

(I) The amount of academic credit to be granted for course work successfully completed by a qualified student concurrently enrolled in the institution of higher education;

(II) A requirement that course work completed by a qualified student through concurrent enrollment at the institution of higher education qualify as basic skills credit or academic credit applicable toward earning a degree or certificate at the institution;

(III) A requirement that the local education provider pay the tuition for each course completed by a qualified student through concurrent enrollment at the institution of higher education in an amount that shall be negotiated by the local education provider and the institution pursuant to the provisions of section 22-35-105 (3);

(IV) A requirement that the local education provider and the institution of higher education establish an academic program of study for each qualified student who concurrently enrolls in the institution, which academic program of study shall include the academic plan of study established pursuant to subsection (3) of this section and a plan by which the local education provider shall make available to the student ongoing counseling and career planning;

(V) A confirmation by the local education provider of the qualified student's uniquely identifying student number, which shall be retained by the institution of higher education for the purposes described in section 23-18-202 (5) (c) (I) (B), C.R.S.;

(VI) Language authorizing the payment of stipends from the college opportunity fund program, part 2 of article 18 of title 23, C.R.S., on behalf of the qualified student; except that a cooperative agreement need not include this language if the institution of higher education that is a party to the cooperative agreement does not receive stipends from the college opportunity fund program;

(VII) Consideration and identification of ways in which qualified students who concurrently enroll in postsecondary courses, including academic courses or career and technical education courses, can remain eligible for interscholastic high school activities; and

(VIII) Other financial provisions that the local education provider and the institution of higher education may elect to include in the agreement pursuant to the provisions of section 22-35-105 (5).

(c) An institution of higher education that enters into a cooperative agreement with a local education provider shall provide a copy of the cooperative agreement to the department of higher education, which shall retain the copy. If the cooperative agreement contemplates the provision of career and technical education courses to qualified students, the institution shall also provide a copy of the cooperative agreement to the state board for community colleges and occupational education, which shall retain the copy.

(7) A postsecondary instructor shall not be required to hold a teacher's license or authorization issued pursuant to the provisions of article 60.5 of this title in order to instruct a qualified student who is concurrently enrolled in a course offered by an institution of higher education.

(8) (a) A district charter school may elect to allow a qualified student of the district charter school to concurrently enroll pursuant to the provisions of a cooperative agreement that is entered into by either:

(I) The school district of the district charter school and an institution of higher education; or

(II) The district charter school and an institution of higher education.

(b) If a district charter school elects to allow a qualified student of the district charter school to concurrently enroll pursuant to the provisions of a cooperative agreement that is

entered into by the school district of the district charter school and an institution of higher education:

(I) The district charter school shall be responsible for paying the tuition for each course that is completed by the qualified student pursuant to the cooperative agreement; and

(II) The qualified student of the district charter school shall not concurrently enroll unless, not later than sixty days before the end of the academic term that immediately precedes the intended term of concurrent enrollment, he or she applies for approval of concurrent enrollment from the superintendent of the school district or his or her designee, and the superintendent or his or her designee grants such approval or waives this time limitation, as described in subsection (2) of this section.

(c) If a district charter school elects to allow a qualified student of the district charter school to concurrently enroll as described in subparagraph (I) or (II) of paragraph (a) of this subsection (8), nothing in this article shall be interpreted to entitle the district charter school to any moneys from the school district of the district charter school other than those moneys to which the district charter school is entitled pursuant to the provisions of this title.

(9) A student who concurrently enrolls at an institution of higher education pursuant to this article shall not be disqualified or otherwise rendered ineligible for any state-based financial assistance for which he or she would otherwise be eligible as an entering student at the institution.

(10) (a) Each public institution of higher education is strongly encouraged to allow the concurrent enrollment of qualified students pursuant to this article.

(b) Nothing in this article shall be interpreted to require an institution of higher education to allow the concurrent enrollment of qualified students pursuant to this article or to require an institution of higher education to enter into a cooperative agreement with a local education provider; except that an institution of higher education that elects to allow the concurrent enrollment of a qualified student pursuant to this article shall enter into a cooperative agreement with the local education provider of the student as described in subsection (6) of this section.

(11) On or before January 1, 2010, the department shall explore strategies by which the state may provide opportunities for children who are participating in a home-based educational program pursuant to section 22-33-104.5 to participate in a concurrent enrollment program.

(12) On and after July 1, 2012, except as provided in section 22-35-110 (4), the concurrent enrollment of a student is prohibited except as permitted by the provisions of this article.

(13) Notwithstanding any other provision of this article, a qualified student shall not concurrently enroll in a course that is offered by a postsecondary career and technical education program unless the course is included in a postsecondary degree or certificate program that is approved by the state board for community colleges and occupational education.

(14) If a qualified student concurrently enrolls in a course that is provided by a postsecondary career and technical education program, the instructor of the course shall possess a career and technical education teaching credential that has been authorized by the state board for community colleges and occupational education.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1303, § 1, effective May 21; (1)(b), (1)(d), (1)(e), (4)(a), IP(4)(b), and (6) amended and (13) and (14) added, (SB 09-285), ch. 425, p. 2371, § 3, effective June 4. **L. 2012:** (2)(b) amended, (HB 12-1043), ch. 209, p. 899, § 3, effective August 8.

**Editor's note:** This section is similar to former § 22-35-104 as it existed prior to 2009.

**22-35-105. Financial provisions - payment of tuition.** (1) A cooperative agreement shall include financial provisions that satisfy the requirements of this section.

(2) If a qualified student concurrently enrolls in a course offered by an institution of higher education, the institution shall be responsible for course content, placement of the student in the course, and the quality of instruction. In addition, because the qualified



student is receiving academic credit at his or her local education provider for the course pursuant to section 22-35-104 (5):

(a) The qualified student shall be included in the funded pupil count of his or her school district or, in the case of a student enrolled in an institute charter school, of the school's accounting district, as determined pursuant to the provisions of section 22-54-103 (7); and

(b) The institution of higher education shall include the qualified student in determining the number of full-time equivalent students enrolled in the institution pursuant to the provisions of title 23, C.R.S.

(3) (a) A cooperative agreement shall establish the tuition rate at which the local education provider shall pay the institution of higher education for any courses in which a qualified student of the local education provider concurrently enrolls at the institution. The tuition rate shall not exceed:

(I) For a course offered by a public community college, a public junior college, or an area vocational school, the student share of the tuition rate established for Colorado residents enrolled in the course, which tuition rate is established by the state board for community colleges and occupational education pursuant to section 23-60-202 (1) (c) (I), C.R.S.; except that, if the local education provider is located outside the boundaries of every community college service area, as assigned by the commission pursuant to section 23-60-207, C.R.S., the tuition rate shall not exceed the actual student share of the resident tuition rate of the nearest Colorado public institution of higher education.

(II) For a course offered by any other institution of higher education, the student share of the tuition rate established for Colorado residents enrolled in a general studies course at a community college, which tuition rate is established by the state board for community colleges and occupational education pursuant to section 23-60-202 (1) (c) (I), C.R.S.; except that, if the local education provider is located outside the boundaries of every community college service area, as assigned by the commission pursuant to section 23-60-207, C.R.S., the tuition rate shall not exceed the actual student share of the resident tuition rate of the nearest Colorado public institution of higher education.

(b) Nothing in this subsection (3) shall be interpreted to prohibit an institution of higher education from charging tuition or associated fees to a qualified student or his or her parent or legal guardian in addition to the tuition paid by the student's local education provider to the institution pursuant to paragraph (a) of this subsection (3).

(4) (a) Before paying the tuition for a course in which a qualified student concurrently enrolls, the local education provider in which the qualified student is enrolled shall require the qualified student and his or her parent or legal guardian to sign a document requiring repayment of the amount of tuition paid by the local education provider for the course on the qualified student's behalf if the qualified student does not complete the course for any reason without the consent of the principal of the student's high school.

(b) If a qualified student concurrently enrolled in a course for whom a local education provider pays tuition does not complete the course for any reason without the consent of the principal of the high school in which the qualified student is enrolled, the qualified student or the qualified student's parent or legal guardian shall reimburse the local education provider, as provided in the document signed pursuant to paragraph (a) of this subsection (4), for the amount of tuition paid by the local education provider for the course.

(c) A local education provider may adopt a policy that requires a qualified student and his or her parent or legal guardian to sign a document prior to the student's concurrent enrollment in a course, which document commits the student or his or her parent or legal guardian to reimburse the local education provider for the tuition paid by the local education provider for the course in the event that the student receives a failing grade in the course.

(5) A local education provider and an institution of higher education may elect to include in their cooperative agreement other financial provisions that are not inconsistent with the provisions of this section.

**Source:** L. 2009: Entire article R&RE, (HB 09-1319), ch. 286, p. 1308, § 1, effective May 21; (2)(a) and (4) amended, (SB 09-285), ch. 425, p. 2373, § 4, effective June 4.

**Editor's note:** This section is similar to former § 22-35-105 as it existed prior to 2009.

**22-35-106. Transportation.** A local education provider of a qualified student who is concurrently enrolled at an institution of higher education shall not be required to provide or pay for transportation for the qualified student to or from the institution.

**Source:** L. 2009: Entire article R&RE, (HB 09-1319), ch. 286, p. 1309, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-106 as it existed prior to 2009.

**22-35-107. Concurrent enrollment advisory board - created - membership - duties - reports - repeal.** (1) There is hereby created within the department the concurrent enrollment advisory board. The board shall consist of members appointed as provided in this section and shall have the powers and duties specified in this section. The board shall exercise its powers and perform its duties and functions under the department, the commissioner of education, and the state board as if the same were transferred to the department by a **type 2** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The board shall consist of the following thirteen members:

(a) Three representatives from the state system of elementary and secondary education appointed by the commissioner of education, including at least one member who represents a rural public school or school district and at least one member who represents a school district where a relatively low percentage of recent high school graduates have enrolled in institutions of higher education;

(b) Four representatives from the state systems of higher education appointed by the executive director of the department of higher education, including at least two members who represent the Colorado community college system, one member who represents a public, four-year institution of higher education, and one member who represents a local district college;

(c) Three representatives appointed by the governor, including at least one member who has experience in postsecondary student counseling, student admissions, and financial aid and at least one member who has experience in public budgeting and finance;

(d) The director of accreditation and regional services within the department or his or her designee; and

(e) Two representatives of postsecondary career and technical education programs, one of whom is the director of career and technical education within the state system of community and technical colleges and one of whom represents the state system of elementary and secondary education and is appointed by the state board for community colleges and occupational education.

(3) Each appointing authority shall make its initial appointments no later than October 1, 2009. Each member of the board shall serve at the pleasure of the member's appointing authority for a term of three years. The appropriate appointing authority shall fill any vacancies arising during a member's term on the board.

(4) The commissioner of education shall call the first meeting of the board to be held no later than November 15, 2009. At its first meeting, and annually thereafter, the board shall select from among its members a person to serve as chair of the board. The board shall meet upon call of the chair as often as necessary to accomplish its duties as specified in this section.

(5) The board members shall serve without compensation and without reimbursement for expenses. Upon request of the board chair, the department, to the extent possible within existing resources, shall provide meeting space, equipment, and staff services as may be necessary for the board to carry out its duties under this section.

(6) The board shall have the following duties:

(a) Establishing guidelines for the administration of the ASCENT program pursuant to section 22-35-108 (4);

(b) Advising and assisting local education providers and institutions of higher education in preparing cooperative agreements;



(c) Making recommendations as necessary to the general assembly, the state board, and the commission concerning the improvement or updating of state policies relating to concurrent enrollment programs, including but not limited to recommendations of policies that will allow every local education provider in the state to have adequate resources to enter into at least one cooperative agreement; and

(d) On or before December 1, 2010, considering and making recommendations to the state board and the education committees of the house of representatives and senate, or any successor committees, regarding the feasibility of a waiver process whereby a qualified student could apply to the department for a waiver of certain provisions of section 22-35-108, which waiver would allow the student to be designated by the department as an ASCENT program participant in the second year following the year in which he or she was enrolled in the twelfth grade of a local education provider so long as he or she:

(I) Was so designated in the year directly following the year in which he or she was enrolled in the twelfth grade of a local education provider;

(II) Requires fifteen or fewer credit hours of postsecondary course work to achieve a postsecondary credential; and

(III) Is eligible for free or reduced-cost lunch pursuant to the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(7) On or before December 1, 2010, and on or before December 1 each year thereafter, the board shall prepare a report and submit it to the state board and the commission. The report, at a minimum, shall include:

(a) Any guidelines that the board has established pursuant to paragraph (a) of subsection (6) of this section; and

(b) Any recommendations that the board makes pursuant to paragraph (c) of subsection (6) of this section.

(8) (a) This section is repealed, effective July 1, 2019.

(b) Prior to said repeal, the board shall be reviewed as provided in section 2-3-1203, C.R.S.

**Source: L. 2009:** Entire article R&RE. (HB 09-1319), ch. 286, p. 1309, § 1, effective May 21; IP(2), (2)(c), and (2)(d) amended and (2)(e) added, (SB 09-285), ch. 425, p. 2374, § 5, effective June 4.

**22-35-108. Accelerating students through concurrent enrollment program - objectives - selection criteria - rules.** (1) (a) There is hereby established the accelerating students through concurrent enrollment program. Beginning in the 2010-11 school year, the department shall administer the ASCENT program pursuant to the provisions of this section and guidelines established by the board pursuant to subsection (4) of this section. The objectives of the ASCENT program are to:

(I) Increase the percentage of students who participate in postsecondary education, especially among low-income and traditionally underserved populations;

(II) Decrease the number of students who do not complete high school;

(III) Decrease the amount of time that is required for a student to complete a postsecondary degree or certificate;

(IV) Reduce state expenditures for public education; and

(V) Increase the number of educational pathways available to students.

(b) Notwithstanding any other provision of this article, a qualified student who is designated by the department to be an ASCENT program participant pursuant to subsection (2) of this section may concurrently enroll in postsecondary courses, including academic courses and career and technical education courses, in the year directly following the year in which he or she was enrolled in the twelfth grade of a local education provider.

(2) (a) Subject to available appropriations and the determinations of the state board pursuant to subparagraph (III) of paragraph (c) of this subsection (2), the department may designate as an ASCENT program participant any qualified student who:

(I) Has completed or is on schedule to complete at least twelve credit hours of postsecondary course work prior to the completion of his or her twelfth-grade year;

(II) Is not in need of a basic skills course;

(III) Has been selected for participation in the ASCENT program by his or her high school principal or equivalent school administrator;

(IV) Has been accepted into a postsecondary degree program at an institution of higher education;

(V) Has satisfied any other selection criteria established by guidelines established by the board pursuant to subsection (4) of this section; and

(VI) Has not been designated an ASCENT program participant in any prior year.

(b) Repealed.

(c) (I) On or before September 1, 2009, and on or before September 1 each year thereafter, each local education provider shall submit to the department and the state board an estimate of the number of students in the local education provider who will seek to be designated by the department as ASCENT program participants for the following school year.

(II) The department, as part of its annual budget request to the general assembly, shall report the total number of students who have been identified by local education providers as potential ASCENT program participants for the following school year.

(III) On or before June 1, 2010, and on or before June 1 each year thereafter, the state board of education shall determine and report to the department how many qualified students the department may designate as ASCENT program participants from each local education provider for the following school year.

(3) The local education provider of a qualified student who is designated by the department as an ASCENT program participant may include the student in the district's funded pupil count, or, in the case of a student enrolled in an institute charter school, in the school's accounting district, as provided in section 22-54-103 (7).

(4) The board shall establish guidelines for the administration of the ASCENT program, including but not limited to selection criteria that the department may use pursuant to subparagraph (V) of paragraph (a) of subsection (2) of this section to designate qualified students as ASCENT program participants.

(5) For the purposes of part 6 of article 7 of this title concerning school accountability reports, the department shall include ASCENT program participants in the reporting requirements, regardless of whether an ASCENT program participant has completed his or her graduation requirements.

(6) (a) A qualified student who is designated by the department as an ASCENT program participant shall not be considered a high school graduate until he or she has completed his or her participation in the ASCENT program and any remaining graduation requirements specified by his or her high school administration.

(b) On or before June 1, 2010, the state board of education shall promulgate rules for schools and school districts to follow in satisfying state and federal reporting requirements concerning the enrollment status of ASCENT program participants. To the extent practicable, the rules shall ensure that schools and school districts are not adversely affected in calculating and reporting the completion of high school graduation requirements by qualified students who have been designated by the department as ASCENT program participants. The rules shall include, at a minimum, reporting requirements relating to:

(I) The provisions of article 7 of this title concerning educational accountability; and

(II) The provisions of article 11 of this title concerning educational accreditation.

**Source:** L. 2009: Entire article R&RE, (HB 09-1319), ch. 286, p. 1311, § 1, effective May 21; IP(1)(a), (1)(a)(III), and (1)(b) amended, (SB 09-285), ch. 425, p. 2374, § 6, effective June 4.

**Editor's note:** Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2012. (See L. 2009, p. 1311.)

**22-35-109. Institution of higher education - enrollment - limitations.** (1) An institution of higher education to which a qualified student applies for concurrent enrollment may allow the student to enroll in courses offered by the institution. An institution of



higher education may limit the number of qualified students that the institution allows to enroll.

(2) If an institution of higher education refuses to allow a qualified student to concurrently enroll, the institution shall provide a written explanation of its refusal to the student and the student's local education provider.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-107 as it existed prior to 2009.

### **22-35-109.5. Community colleges - dropout recovery programs - definitions.**

(1) As used in this section, unless the context otherwise requires:

(a) "Community college" means an institution that operates as part of the state system of community and technical colleges established in part 2 of article 60 of title 23, C.R.S., or a junior college, as defined in section 23-71-102, C.R.S., that operates pursuant to article 71 of title 23, C.R.S.

(b) "Dropout recovery program" means a dual-credit high school diploma completion program operated by a community college pursuant to an agreement with a local education provider for students who have dropped out or are at risk of dropping out of high school.

(2) (a) A community college may enter into agreements with one or more local education providers to operate dropout recovery programs for students who have dropped out or are at risk of dropping out of high school. To participate in a dropout recovery program, a student shall be at least sixteen years of age but younger than twenty-one years of age. If the student is at risk of dropping out of high school, the student shall obtain permission from the chief executive officer of the school in which the student is enrolled before the student may participate in the dropout recovery program. A student who enrolls in a dropout recovery program is included in the pupil enrollment of the local education provider that is a partner in the program, but does not attend classes at a school operated by the local education provider. The student attends classes either in person or virtually only at the community college at which the student enrolls pursuant to the dropout recovery program. A student may participate in a dropout recovery program until he or she completes the high school graduation requirements or reaches twenty-one years of age, whichever comes first.

(b) Notwithstanding any provision of this article or of article 54 of this title or any rules adopted for the implementation of said article to the contrary:

(I) A student enrolled in a dropout recovery program pursuant to this section may enroll in basic skills courses, as necessary, regardless of the student's high school grade level;

(II) A student enrolled in a dropout recovery program pursuant to this section is not restricted in the number of credit hours per semester or in the overall number of credit hours for which the student may enroll through the dropout recovery program, unless limited by the enrolling institution;

(III) After a student enrolls in a dropout recovery program, the local education provider that is a partner in the program may include the student in its pupil enrollment as a full-time student, regardless of whether the student is actually in class for the minimum number of required hours for full-time enrollment, so long as the student enrolls in at least seven credit hours per semester; and

(IV) A student enrolled in a dropout recovery program pursuant to this section may enroll in courses at the community college that qualify for credit toward completion of the local education provider's requirements for high school graduation, even if the courses do not qualify for basic skills credit or academic credit applicable toward earning a degree or certificate at the community college.

(3) The agreement between a community college and a local education provider to operate a dropout recovery program pursuant to this section shall specify, at a minimum, that:

(a) All of the courses the student is allowed to take through the dropout recovery program qualify for credit toward completion of the local education provider's requirements for high school graduation;

(b) The local education provider shall provide to the community college the uniquely identifying student number for each student enrolled in the dropout recovery program;

(c) The local education provider shall confirm that each student enrolled in the dropout recovery program has dropped out of enrollment with a local education provider or, if the student is at risk of dropping out of high school, has the permission of the chief executive officer of the school in which the student is enrolled to enroll in the dropout recovery program;

(d) The local education provider shall include each student enrolled in the dropout recovery program as a full-time pupil in the local education provider's pupil enrollment so long as the student is enrolled in the dropout recovery program; and

(e) The local education provider shall pay the student share of the tuition for each course completed by a student through the dropout recovery program in an amount negotiated by the local education provider and the community college. The local education provider and the community college may agree to additional financial provisions that are not inconsistent with the provisions of section 22-35-105.

**Source: L. 2012:** Entire section added, (HB 12-1146), ch. 184, p. 697, § 1, effective May 17.

**22-35-110. Exclusions.** (1) The provisions of this article shall not apply to any course that is offered as part of a program of off-campus instruction established pursuant to section 23-1-109, C.R.S.

(2) Nothing in this article shall be construed to restrict the ability of an institution of higher education to independently offer courses for college credit outside of the regular school day using school district facilities.

(3) Repealed.

(4) The provisions of this article shall not apply to an early college.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21.

**Editor's note:** Subsection (3)(b) provided for the repeal of subsection (3), effective June 30, 2012. (See L. 2009, p. 1314.)

**22-35-111. Rules.** (1) On or before July 1, 2010, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the administration of this article. The rules, at a minimum, shall establish:

(a) Guidelines for local education providers to use in creating standard concurrent enrollment application forms, as described in section 22-35-104 (2) (c); and

(b) Guidelines for principals, counselors, and teacher advisors to use in approving or disapproving academic plans of study, as described in section 22-35-104 (3).

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-111 as it existed prior to 2009.

**22-35-112. Reports.** (1) (a) Upon request by the department, a local education provider shall submit to the department any data that the department reasonably requires for the purpose of preparing and submitting the reports described in subsection (2) of this section. In submitting data to the department, each local education provider shall use whenever possible the state data reporting system described in section 22-11-501. The department shall seek to minimize and eliminate the duplication of data reporting required



under this paragraph (a). The department in particular shall note the data collection and reporting already required and conducted by the department, public schools, and local education providers.

(b) Upon request by the department of higher education, an institution of higher education shall submit to the department of higher education any data that the department of higher education reasonably requires for the purpose of preparing and submitting the reports described in subsection (2) of this section.

(2) On or before February 1, 2011, and on or before February 1 each year thereafter, the department and the department of higher education shall collaborate to prepare and submit to the education committees of the senate and house of representatives, or any successor committees, a report concerning the concurrent enrollment of qualified students in post-secondary courses, including academic courses and career and technical education courses. The report shall include, but need not be limited to:

(a) The number and names of local education providers and institutions of higher education that have entered into cooperative agreements;

(b) The number of qualified students who participated in a concurrent enrollment program in the previous school year, including subtotals for each local education provider and each institution of higher education;

(c) Demographic information about qualified students who participated in a concurrent enrollment program in the previous school year;

(d) The total number of credit hours completed at each institution of higher education by qualified students who participated in a concurrent enrollment program in the previous school year;

(e) The total number of basic skills courses completed at each institution of higher education in the previous school year by qualified students participating in a concurrent enrollment program;

(f) The total tuition costs paid by local education providers to institutions of higher education in the previous school year on behalf of qualified students who participated in concurrent enrollment programs in the previous school year, including subtotals for each local education provider and each institution of higher education;

(g) The total number of qualified students designated by the department as ASCENT program participants in the previous school year;

(h) The postsecondary degree and certificate programs in which ASCENT program participants were concurrently enrolled in the previous school year, including subtotals indicating how many ASCENT program participants concurrently enrolled in each post-secondary degree and certificate program;

(i) Data indicating the total number and percentages of qualified students who failed to complete at least one course in which they concurrently enrolled;

(j) To the extent possible, data indicating the total number and percentage of qualified students who concurrently enrolled in college courses who have completed a postsecondary degree; and

(k) Repealed.

(3) The reports described in subsection (2) of this section may include quantitative and qualitative analyses concerning student and administrator attitudes and behaviors, program costs and productivity, academic and administrative policies, program availability and variety, or any objectives of the ASCENT program described in section 22-35-108 (1), which studies may be prepared by a party other than the department or the department of higher education.

**Source:** L. 2009: Entire article R&RE, (HB 09-1319), ch. 286, p. 1315, § 1, effective May 21; IP(2), (2)(a), (2)(b), (2)(h), (2)(i), and (2)(k)(I) amended, (SB 09-285), ch. 425, p. 2375, § 7, effective June 4. L. 2011: (1)(a) amended, (HB 11-1303), ch. 264, p. 1162, § 49, effective August 10.

**Editor's note:** Subsection (2)(k)(II) provided for the repeal of subsection (2)(k), effective February 2, 2011. (See L. 2009, p. 1315.)

ARTICLE 35.5  
Fast College Fast Jobs Act

22-35.5-101 to 22-35.5-108. (Repealed)

**Source:** L. 2009: Entire article repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21.

**Editor’s note:** This article was added in 2007 and was not amended prior to its repeal in 2009. For the text of this article prior to 2009, consult the 2008 Colorado Revised Statutes.

ARTICLE 36  
Public Schools of Choice

22-36-101.	Choice of programs and schools within school districts.	22-36-104.	pealed) Interdistrict schools of choice pilot program grants - repeal. (Repealed)
22-36-102.	Interdistrict schools of choice pilot program - repeal. (Repealed)	22-36-105.	Schools of choice fund - creation - purpose - repeal. (Repealed)
22-36-103.	Eligibility of school districts for participation in interdistrict schools of choice pilot program - repeal. (Re-	22-36-106.	Department - distribution of information - study - report.

**22-36-101. Choice of programs and schools within school districts.** (1) Except as otherwise provided in subsection (3) of this section, every school district, as defined in section 22-30-103 (13), shall allow:

(a) Its resident pupils who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district; and

(b) Commencing with the 1994-95 school year and thereafter, nonresident pupils from other school districts within the state who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district without requiring the nonresident pupils to pay tuition.

(2) (a) Every school district shall adopt such policies and procedures as are reasonable and necessary to implement the provisions of subsection (1) of this section, including, but not limited to, timelines for application to and acceptance in any program or school which may provide for enrollment of the student on or before the pupil enrollment count day, and, while adopting policies and procedures, the school district shall consider adopting a policy establishing that an applicant with a proficiency rating of unsatisfactory in one or more academic areas who attends a public school that is required to implement a turnaround plan pursuant to section 22-11-406 or that is subject to restructuring pursuant to section 22-11-210 shall have priority over any other applicant for enrollment purposes.

(b) In implementing the provisions of subsection (1) of this section, no school district shall be required to:

(I) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school;

(II) Establish and offer any particular program in a school if such program is not currently offered in such school;

(III) Alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or

(IV) Enroll any student pursuant to this section in any program or school after the pupil enrollment count day.



(c) As used in this subsection (2), unless the context otherwise requires, “pupil enrollment count day” has the same meaning as set forth in section 22-54-103 (10.5).

(3) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools within such school district only for any of the following reasons:

(a) There is a lack of space or teaching staff within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(b) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.

(c) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.

(d) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.

(e) The student has been expelled, or is in the process of being expelled, for the reasons specified in section 22-33-106 (1) (c.5) or (1) (d) or the student may be denied permission to enroll pursuant to section 22-33-106 (3) (a), (3) (b), (3) (c), (3) (e), or (3) (f).

(4) Repealed.

(5) (a) Except as otherwise provided in paragraph (b) of this subsection (5), any pupil who enrolls in a school district other than the pupil’s school district of residence pursuant to this article may remain enrolled in that school district’s school or program through the end of the school year.

(b) This subsection (5) shall not apply if:

(I) The nonresident pupil is expelled pursuant to statute from the school or program described in paragraph (a) of this subsection (5);

(II) The nonresident pupil’s attendance or participation in the school or program described in paragraph (a) of this subsection (5) requires the school district to perform any of the functions described in subparagraphs (I) to (III) of paragraph (b) of subsection (2) of this section; or

(III) The nonresident pupil is excluded from the school or program described in paragraph (a) of this subsection (5) for any of the reasons described in paragraphs (a) to (d) of subsection (3) of this section.

**Source:** **L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (4) repealed, p. 467, § 1, effective June 7; (2) and (3) amended, p. 544, § 2, effective June 8. **L. 92:** (1) amended, p. 515, § 4, effective June 1. **L. 94:** (1), (2)(a), (2)(b)(II), (2)(b)(III), IP(3), and (3)(a) amended and (2)(b)(IV) and (3)(e) added, pp. 557, 558, §§ 1, 2, effective April 6. **L. 2002:** (5) added, p. 1794, § 60, effective June 7. **L. 2003:** Entire section amended, p. 857, § 1, effective July 1. **L. 2009:** (2)(a) amended, (SB 09-163), ch. 293, p. 1544, § 48, effective May 21. **L. 2012:** (2)(a) and (2)(b)(IV) amended and (2)(c) added, (HB 12-1090), ch. 44, p. 153, § 15, effective March 22.

#### ANNOTATION

**No violation of subsection (3)(a) where disabled student was not allowed to continue in her previous program until she moved back into the school district.** Limiting the number of nonresident students requesting special education does not constitute an illegal quota. The

school district’s obligation is limited by the district’s resources and the district’s primary obligation to provide services to residents. *Bradshaw v. Cherry Creek Sch. Dist.* No. 5, 98 P.3d 886 (Colo. App. 2003).

#### 22-36-102. Interdistrict schools of choice pilot program - repeal. (Repealed)

**Source:** **L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (3) repealed, p. 467, § 2, effective June 7. **L. 92:** (1) amended, p. 516, § 5, effective June 1.

**Editor’s note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1089.)

**22-36-103. Eligibility of school districts for participation in interdistrict schools of choice pilot program - repeal. (Repealed)**

**Source:** L. 90: Entire article added, p. 1090, § 59, effective May 31.

**Editor’s note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

**22-36-104. Interdistrict schools of choice pilot program grants - repeal. (Repealed)**

**Source:** L. 90: Entire article added, p. 1090, § 59, effective May 31.

**Editor’s note:** Subsection (2) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

**22-36-105. Schools of choice fund - creation - purpose - repeal. (Repealed)**

**Source:** L. 90: Entire article added, p. 1090, § 59, effective May 31. L. 94: (1) amended, p. 814, § 32, effective April 27. L. 98: Entire section amended, p. 972, § 16, effective May 27.

**Editor’s note:** Subsection (4) provided for the repeal of this section effective August 1, 1998. (See L. 98, p. 972.)

**22-36-106. Department - distribution of information - study - report.** (1) The department shall make information available to the public about the enrollment options which are available throughout the public school system in Colorado.

(2) (a) The department of education shall study and evaluate the enrollment options available throughout the public school system in Colorado. The department is authorized to request from any school district such information and data as may be necessary to make such reports.

(b) Based upon such evaluation and study, the department of education shall make a report to the education committees of the senate and the house of representatives, or any successor committees, in each January.

**Source:** L. 90: Entire article added, p. 1091, § 59, effective May 31. L. 96: (2)(b) amended, p. 1239, § 90, effective August 7. L. 2006: (2)(b) amended, p. 608, § 27, effective August 7.

**Cross references:** For the legislative declaration contained in the 1996 act amending subsection (2)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

ARTICLE 37

Grant Program for In-school  
or In-home Suspension

22-37-101.	Short title.	22-37-105.	Administration.
22-37-102.	Legislative declaration.	22-37-106.	Reporting. (Repealed)
22-37-103.	Definitions.	22-37-107.	Funding.
22-37-104.	Qualification.		



**22-37-101. Short title.** This article shall be known and may be cited as the “In-school Suspension Act”.

**Source: L. 96:** Entire article added, p. 1808, § 5, effective July 1.

**22-37-102. Legislative declaration.** The general assembly hereby finds and declares that the purpose of this article is to provide means for encouraging experimentation in the management of students suspended from public schools or facility schools and to evaluate programs that will provide continuous education, supervision, and discipline to suspended students in order to maintain the education of a suspended student and prevent the continuation of disruptive behavior, further suspension, or expulsion of the student.

**Source: L. 96:** Entire article added, p. 1808, § 5, effective July 1. **L. 2008:** Entire section amended, p. 1400, § 41, effective May 27.

**22-37-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Eligible participant” means any public school, as defined in section 22-1-101, that enrolls students in kindergarten through twelfth grades or any public or private agency operating in conjunction with any such public school.

(1.5) “Facility school” means an approved facility school as defined in section 22-2-402 (1).

(2) “In-home suspension” means a suspension pursuant to section 22-33-105 in which the student is suspended from participation in regular school activities but receives continuous educational instruction, supervision, and discipline in a home environment.

(3) “In-school suspension” means a period of time during which, pursuant to section 22-33-105, the student is prohibited from participating in regular school activities but remains in the school environment and continues to receive educational instruction, supervision, and discipline.

(4) “Program” means an in-school or in-school district suspension program or in-home suspension program authorized pursuant to this article.

(5) “State board” means the state board of education.

(6) “Suspended student” means a student suspended pursuant to section 22-33-105 or otherwise suspended by a facility school.

**Source: L. 96:** Entire article added, p. 1809, § 5, effective July 1. **L. 2008:** (1.5) added and (6) amended, p. 1400, § 42, effective May 27. **L. 2012:** (3) amended, (HB 12-1345), ch. 188, p. 745, § 29, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (3), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council’s web site.

**22-37-104. Qualification.** (1) An eligible participant may submit a proposal to the state board for a grant for the development of a program under this article, which may involve selected grade levels within a public school or facility school.

(2) A program shall:

(a) Provide supervision, discipline, counseling, and continuous education for a suspended student with the goal of maintaining the education of a suspended student and preventing further disruptive behavior, subsequent suspension, or expulsion:

(b) Provide for a transitional stage from in-school or in-home suspension to regular school activities;

(c) Include an agreement by the participating public school or facility school that a student suspended for the reasons specified in section 22-33-106 (1) (a) or (1) (b) shall be included in the program;

(d) Include an evaluation phase based on the collection of data that shall measure effectiveness of the program; and

(e) Include provisions for the dissemination of the results of the program to the state board; the participating facility school; the school board or governing board of the participating public school; the parents, guardians, or legal custodians with students attending the participating public school; and any other interested persons.

(3) A program may include, but need not be limited to, any of the following:

(a) Programs that utilize new instructional, counseling, or disciplinary concepts;

(b) Programs that utilize current public school or facility school staff or other personnel;

(c) Programs that encourage parental participation and involvement;

(d) Programs that employ individualized instruction, computer-assisted instruction, or other automated equipment for instruction;

(e) Programs that provide behavioral modification or anger management techniques.

(4) Each proposal must include a breakdown of all costs that would be incurred upon approval of the program.

**Source: L. 96:** Entire article added, p. 1809, § 5, effective July 1. **L. 2004:** (2)(e) amended, p. 1587, § 15, effective June 3. **L. 2008:** (1), (2)(c), (2)(e), and (3)(b) amended, p. 1400, § 43, effective May 27.

**22-37-105. Administration.** (1) The state board shall have the authority to approve programs under this article, the total stated costs of which shall not exceed twenty-five thousand dollars for each individual program in any one year and five hundred thousand dollars, in the aggregate, for all programs in any one year.

(2) Each grant shall be for a period of two years, subject to review by the state board of the effectiveness of the program and the adherence of the program to this article. All grants shall be renewable for additional two-year periods upon further application to the state board.

(3) The state board shall have the authority to adopt rules necessary for the administration of this article.

**Source: L. 96:** Entire article added, p. 1810, § 5, effective July 1.

#### **22-37-106. Reporting. (Repealed)**

**Source: L. 96:** Entire article added, p. 1810, § 5, effective July 1. **L. 2008:** Entire section amended, p. 1401, § 44, effective May 27. **L. 2010:** Entire section repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11.

**22-37-107. Funding.** The department of education may pursue additional sources of funding for the financing of in-school or in-home suspension programs, including but not limited to grants, donations, and contributions from public or private sources and any funds available pursuant to article 20 of this title.

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.



ARTICLE 38

**Pilot Schools for Students Expelled  
from Sixth through Ninth Grades**

22-38-101.	Short title.		newal of application -
22-38-102.	Legislative declaration.		grounds for nonrenewal or
22-38-103.	Definitions.		revocation.
22-38-104.	Pilot schools - requirements -	22-38-109.	Pilot school employees.
	authority.	22-38-110.	Pilot school evaluation - re-
22-38-105.	Applications for the right to		port. (Repealed)
	operate pilot schools - con-	22-38-111.	Pilot schools - admission of
	tents.		students.
22-38-106.	Application process for pilot	22-38-112.	Discipline and expulsion of
	school contract.		students.
22-38-107.	Negotiation of pilot school	22-38-113.	Notification requirements.
	contract.	22-38-114.	Evaluation.
22-38-108.	Pilot school contracts - re-	22-38-115.	Funding.

**22-38-101. Short title.** This article shall be known and may be cited as the “Colorado Pilot Schools Act”.

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.

**22-38-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is the goal of the state of Colorado to provide educational opportunities to all students who choose to pursue such opportunities;

(b) To maintain discipline in the public schools, it is sometimes essential for the public schools to expel students;

(c) Students who are expelled from public schools are much more likely than their former classmates to fail to obtain a high school education and to have early contacts with the criminal justice system;

(d) Providing students in the sixth through ninth grades who have been expelled with the opportunity to continue their education in a proper setting will enhance the possibility that they will continue their education and become productive members of society;

(e) The best way to promote a desire to stay in school is to intervene in a student’s academic career prior to the student entering high school; and

(f) As students who are expelled from public schools no longer belong to any school district, it is appropriate for the state to devise programs to meet their needs.

(2) The general assembly further finds and declares that this article is enacted for the following purposes:

(a) To complement the present disciplinary systems in existence at Colorado public schools;

(b) To encourage diverse approaches to educating children who have been expelled;

(c) To provide students who have been expelled with the opportunity to continue their education;

(d) To determine the most effective means of addressing the educational, psychological, cultural, and other needs of those students who have been expelled; and

(e) To provide resources for development of an extended day, year-round program for students who require more intense supervision and instruction.

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.

**22-38-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “At-risk student” means a student who is in the sixth, seventh, eighth, or ninth grade, who is under seventeen years of age, and who has been the subject of at least one suspension in the past year.

(2) “Expelled student” means a student who has been expelled from school pursuant to section 22-33-105.

(3) “Pilot school” means a school created pursuant to this article by a school district, combination of school districts, board of cooperative services pursuant to section 22-5-104, or a private entity operating pursuant to a contract with the state board.

(4) “State board” means the state board of education.

**Source: L. 96:** Entire article added, p. 1812, § 5, effective July 1. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 750, § 43, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (2), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council’s web site.

**22-38-104. Pilot schools - requirements - authority.** (1) The state board may provide for the establishment and operation of not more than one full-time residential pilot school and not more than three year-round nonresidential pilot schools pursuant to the following provisions:

(a) The state board shall consider placement of the pilot schools in geographic areas of the state that shall provide the easiest access to the maximum number of expelled and at-risk students eligible to attend the pilot schools. The state board is urged to consider placement of one pilot school in the Denver metropolitan area; one in the southeastern part of the state south of the 39th parallel and east of the continental divide; one in the northeast part of the state north of U.S. Interstate 70, east of the continental divide; and one west of the continental divide.

(b) A pilot school shall be a public, nonsectarian, nonreligious, non-home-based school.

(c) A pilot school shall be administered and governed by a board of directors in a manner agreed to by the pilot school applicant and the state board.

(d) A pilot school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, or ancestry. Enrollment decisions shall be made in a nondiscriminatory manner specified by the pilot school applicant in the pilot school application.

(2) Not more than three pilot schools shall each have a minimum of sixty students who do not reside at the school, approximately two-thirds of whom shall be expelled students, and the remainder of whom shall be at-risk students admitted by the pilot school in the manner specified in the pilot school application.

(3) The residential pilot school shall have a minimum of sixty students, two-thirds of which shall be expelled students and one-third of which shall be at-risk students. The school shall make available full-time residential facilities for all expelled students who, in the determination of the pilot school, may benefit from an environment different from those conditions that may have contributed to the student’s expulsion. The residential pilot school shall only admit expelled and at-risk students who are in the sixth grade or seventh grade if compelling circumstances exist for admitting such students to a residential facility.

(4) A pilot school shall operate on a year-round basis and offer services for an extended period of more than eight hours during each educational day.

(5) A pilot school shall be accountable to the state board for purposes of ensuring compliance with applicable laws and contract provisions and the requirement of section 15 of article IX of the state constitution.

(6) A pilot school may require a parent or legal guardian and the student to enter into a mutual responsibility agreement according to the terms of which a parent, legal guardian, or student provides services to the pilot school or agrees to make a financial contribution to the pilot school.



(7) The state board shall promulgate guidelines for assessing the ability of the parent or legal guardian of a student to make a financial contribution to a pilot school to cover part, or all, of the costs of tuition for that student at the pilot school. The guidelines shall provide for a process to be used by pilot schools to assess the financial resources of a parent or legal guardian that could be reasonably applied to offset the costs of a student's education without imposing a financial hardship on the parent, legal guardian, or family of the student attending the pilot school.

(8) Pursuant to contract, a pilot school may operate free from specified school district policies, state statutes, state regulations, and contract requirements otherwise applicable to schools located in the school district where the pilot school is located. Upon request of the pilot school, the state board may release the pilot school from any school district policies, state statutes, state regulations, or contract requirements. Any waiver made pursuant to this subsection (8) shall be for the term of the contract for which the waiver is made.

(9) (a) A pilot school shall be responsible for its own operation including, but not limited to, preparation of a budget, compilation of any data required by this article, contracting for services, and personnel matters.

(b) A pilot school may negotiate and contract with a school district, the governing body of a state college or university, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the pilot school is required to perform in order to carry out the educational program described in its contract. A pilot school may contract with the state for the use of any available state facility in order to carry out the educational program described in its contract. Any services for which a pilot school contracts with the state board or any school district shall be provided to the pilot school at cost.

(10) In addition to the students enrolled at each pilot school pursuant to section 22-38-111, a pilot school may enter into an agreement pursuant to section 22-33-203 (2) with a school district or with a board of cooperative services to provide educational services to enable expelled students to either return to school or successfully complete the GED. Students receiving such services shall not be considered to be enrolled at the pilot school, and, if the pilot school provides full-time residential facilities, students receiving such services need not reside at the pilot school.

**Source:** L. 96: Entire article added, p. 1812, § 5, effective July 1. L. 97: (10) added, p. 591, § 26, effective April 30; IP(1), (2), and (3) amended, p. 424, § 3, effective July 1. L. 2008: (1)(d) amended, p. 1602, § 25, effective May 29.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1)(d), see section 1 of chapter 341, Session Laws of Colorado 2008.

**22-38-105. Applications for the right to operate pilot schools - contents.** (1) The state board shall promulgate regulations for the applications to be submitted for the right to operate a pilot school that shall include:

(a) A description of the applicant, its experience in providing educational, counseling, social, and other necessary services to expelled and other students, and, in the case of nonprofit organizations, its balance sheets and operating statements for the previous five years;

(b) Information regarding the educational background, experience, and qualifications of personnel who will serve on the board of directors and operate the school;

(c) The mission statement of the proposed pilot school;

(d) The goals, objectives, and performance standards to be achieved by the pilot school;

(e) A description of the standards upon which the pilot school will select and admit expelled and at-risk students and determine when an expelled student will be admitted as a residential student;

(f) A description of the pilot school's educational program, student performance standards, curriculum, and student conduct code;

(g) A description of the pilot school's plan for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of

the school's student performance standards, the time line for achievement of such standards, and the procedures for taking corrective action in the event that student performance at the pilot school falls below such standards;

(h) Evidence that the proposed pilot school is economically sound, a proposed budget for the term of the contract, and a description of the manner in which an annual audit of the financial and administrative operations of the pilot school is to be conducted;

(i) A description of the governance and operation of the pilot school, including the nature and extent of parental, professional educator, social services, and community involvement;

(j) An explanation of the relationship that will exist between the proposed pilot school and its employees;

(k) A description of the insurance that the pilot school will obtain;

(l) A description of how the pilot school plans to meet the residential needs of its students and, if the pilot school plans to provide transportation for students, a plan for addressing their transportation needs;

(m) A description of how the school will assist students in adapting to a public school or other appropriate learning or work environment upon the student's departure from the pilot school;

(n) A description of how the residential pilot schools will transition the student back into the home environment if the student will be returning home;

(o) A description of how the pilot school will involve parents in order to enhance students' performance in the pilot school, including the use of any mutual responsibility contracts authorized pursuant to section 22-38-104 (6);

(p) A description of the pilot school's plan to sponsor periodic meetings, conferences, or training seminars to provide information concerning expelled or at-risk students to personnel in the school district or school districts that represent the geographic area in which the pilot school is located;

(q) Identification of the entity that will evaluate the pilot school as required pursuant to section 22-38-114;

(r) A description of how the pilot school plans to foster an awareness of cultural needs; and

(s) Any other information deemed necessary by the state board.

(2) If accepted, the application shall serve as the basis of a contract between the state board and the applicant.

**Source: L. 96:** Entire article added, p. 1814, § 5, effective July 1.

**22-38-106. Application process for pilot school contract.** (1) The state board shall appoint a selection committee to review applications for each of the pilot schools established pursuant to this article and to make recommendations to the state board as to whether a pilot school should be established in an area and which applicant should be selected. The state board shall appoint, as members of or advisors to the committee, members from the county departments of social services from each region in which a pilot school is to be established. The committee may also include persons from local school districts, local law enforcement agencies, local probation departments, community-based organizations, parent groups, and any other interested private citizens.

(2) Applications must be filed with the state board by October 1 to be eligible for the award of contracts for operation during the following school year. If the state board finds the pilot school application is incomplete, it shall request the necessary information from the applicant.

(3) After giving reasonable public notice, the state board may hold community meetings in the area where each pilot school is to be located.

(4) The state board shall select applicants for contracts for operation of pilot schools in a public hearing, upon reasonable public notice.

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1. **L. 2006:** (2) and (4) amended, p. 608, § 28, effective August 7.



**22-38-107. Negotiation of pilot school contract.** (1) The state board shall enter into negotiations for a contract to operate a pilot school with each applicant it has selected. The contract shall be for five years' duration, commencing upon the date of its execution, and shall set forth the terms under which the pilot school shall operate. The contract may be renewed for an additional period of up to five years. The contract shall incorporate the pertinent provisions from the application and shall provide for termination for cause. The contract shall reflect all agreements regarding the release of the pilot school from state board policies and state statutes and regulations.

(2) The state board's decisions regarding the award and contents of a contract shall be final and shall not be reviewable by appeal, certiorari, mandamus, injunction, or otherwise.

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1.

**22-38-108. Pilot school contracts - renewal of application - grounds for nonrenewal or revocation.** (1) A pilot school renewal application shall be submitted to the state board no later than six months before the expiration of the original contract and shall contain:

(a) A report on the progress of the pilot school in achieving the goals, objectives, student performance standards, content standards, and other terms of the initial approved pilot school application;

(b) A financial statement in a format determined by the state board that discloses the costs of administration, instruction, and other spending categories for the pilot school for each of the years of the contract. Such a statement shall be understandable to the general public and should allow comparison of such costs to other schools or other comparable organizations.

(c) A report on the population of the pilot school that discloses the following:

(I) The ethnic, racial, and gender composition of the school and the ages of the students who have attended the school since its inception;

(II) Disciplinary records of the students, including the dates, reasons, and background for each disciplinary incident;

(III) Records of student contacts with the juvenile or criminal justice systems;

(IV) Data on the dropout or graduation rates of the students;

(V) Information on the attendance of the students; and

(VI) Information on the success of the school in educating expelled students.

(2) A pilot school may be closed or a renewal application may be denied by the state board if the state board determines that the pilot school:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the application;

(b) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the pilot application;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the pilot school was not specifically exempted.

(3) A decision by the state board to close a pilot school or not to renew a pilot school application is subject to judicial review pursuant to the provisions of the "State Administrative Procedure Act".

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1.

**Cross references:** For the "State Administrative Procedure Act", see article 4 of title 24.

**22-38-109. Pilot school employees.** (1) Any teacher employed by a school district who becomes a teacher employed by a pilot school shall be deemed to continue to be a teacher within the school district for seniority purposes in the event that teacher returns to that school district.

(2) Employees of a pilot school may elect to become members of the public employees' retirement association, the Denver public schools retirement system, or other tax-deferred

annuity program, whichever is applicable. If the employee makes such an election, the pilot school and the teacher shall contribute amounts as required by such association, system, or program.

(3) Pilot schools may employ as teachers noncertified individuals or persons who do not belong to the collective bargaining group that represents teachers in the place where the school is located. Such persons must be approved by the state board of education.

**Source:** L. 96: Entire article added, p. 1817, § 5, effective July 1.

#### **22-38-110. Pilot school evaluation - report. (Repealed)**

**Source:** L. 96: Entire article added, p. 1818, § 5, effective July 1. L. 2010: Entire section repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11.

**22-38-111. Pilot schools - admission of students.** (1) Expelled students and any at-risk students otherwise eligible to attend sixth through ninth grades and under seventeen years of age may voluntarily apply to any pilot school. No student shall be compelled to attend a pilot school. Each pilot school shall devise its own application and admission procedures. An application shall, at a minimum, include:

- (a) The name, address, gender, race, ethnicity, and age of the student;
- (b) If the student was expelled, the reasons for the expulsion, the date of the expulsion, and the disciplinary record of the student;
- (c) Whether the student is applying to be a full-time residential student;
- (d) A statement from the student explaining why he or she would benefit from the pilot school program;
- (e) Academic records for the prior three years, including classes taken, grades or evaluations received, grade point average, results of any diagnostic testing, and results of standardized tests;
- (f) The student's and parent's, guardian's, or legal custodian's consent to submit to drug testing if required by the pilot school;
- (g) Information concerning the financial resources and income of the parent or legal guardian of the student consistent with the state board's guidelines promulgated pursuant to section 22-38-104 (7);
- (h) Information about the extracurricular activities, sports, hobbies, or out-of-school employment of the student before expulsion; and
- (i) Any other application information required by the pilot school to which the student is applying.

(2) Each student is eligible to apply to the pilot school serving the county where the student resides. A student may also apply to any other pilot school that has not filled all of its sixty student slots.

(3) Students admitted to a pilot school may continue to be enrolled at the pilot school after the expiration of any period of expulsion from their original schools. Students of pilot schools who were not originally enrolled as expelled students may continue to be enrolled pursuant to the policies and regulations adopted by the pilot school.

(4) Students enrolled in a pilot school pursuant to this section are in addition to students receiving educational services from the pilot school under an agreement entered into pursuant to section 22-33-203 (2). Students receiving such educational services shall not be subject to the admissions requirements that are applied to enrolling students, but shall be eligible to receive services as provided under the agreement.

**Source:** L. 96: Entire article added, p. 1818, § 5, effective July 1. L. 97: (4) added, p. 592, § 27, effective April 30.



**22-38-112. Discipline and expulsion of students.** (1) A pilot school may discipline, suspend, and expel students as provided in article 33 of this title.

(2) Based upon a reasonable belief that a student is using drugs, a pilot school may require a student to submit to drug testing after providing notice to the student’s parent, guardian, or legal custodian.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-113. Notification requirements.** (1) Within five days of expelling a student, the school district that expelled the student shall:

- (a) Notify the student and the student’s parent, guardian, or legal custodian of the student’s opportunity to apply to a pilot school;
- (b) Provide the student’s parent, guardian, or legal custodian with a copy of the student’s academic and disciplinary records; and
- (c) Notify the appropriate pilot school of the student’s expulsion.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-114. Evaluation.** A pilot school shall contract with one or more universities to monitor and track the progress of students in the pilot school.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-115. Funding.** (1) The department of education and the department of human services may pursue additional sources of funding for the financing of pilot schools, including but not limited to grants, donations, and contributions from public or private sources and any funds available pursuant to article 20 of this title.

(2) A pilot school may have access to any public or private funding sources available for vocational training, including any funds available pursuant to article 8 of title 23, C.R.S.

(3) A pilot school may apply for a grant from the expelled student services grant program as provided in section 22-33-205 to use in providing educational services to expelled students under agreements entered into pursuant to section 22-33-203 (2).

**Source: L. 96:** Entire article added, p. 1820, § 5, effective July 1. **L. 97:** (3) added, p. 592, § 28, effective April 30.

**FINANCIAL POLICIES AND PROCEDURES**

**ARTICLE 40**

**Tax Levies and Revenues**

**Editor’s note:** This article was numbered as article 3 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

22-40-101.	Definitions.	22-40-103.	Change in needed tax rev-
22-40-102.	Certification - tax revenues.		enues - unlawful.

22-40-104.	County treasurer - accounts - warrants.	22-40-108.	Revenues - reorganization.
22-40-105.	Depositories.	22-40-109.	Tax levy for school facilities improvements. (Repealed)
22-40-106.	Registered warrants by treasurer of the board.	22-40-110.	Additional property tax for capital improvements in growth school districts.
22-40-107.	Short-term loans.		

**22-40-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(1.5) "Eligible elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(2) "School district" or "district" means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source:** L. 64: R&RE, p. 538, § 1. C.R.S. 1963: § 123-3-1. L. 75: (2) amended, p. 786, § 6, effective July 1. L. 92: (1.5) added, p. 837, § 32, effective January 1, 1993. L. 96: (2) amended, p. 65, § 22, effective July 1.

### ANNOTATION

**The right and power of school districts to assess and collect special taxes for school purposes is purely statutory.** No aid in the determination of the question can be gained from outside sources; it can only be determined from the statutory provisions and their construction,

according to well-known and generally accepted rules. Bd. of Comm'rs v. Pueblo & A. V. R. R., 3 Colo. App. 398, 33 P. 682 (1893) (decided prior to earliest source of this section, § 123-3-1, as amended).

**22-40-102. Certification - tax revenues.**

(1) (a) Repealed.

(b) (I) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board of education of each school district shall certify to the board of county commissioners of the county wherein said school district is located the separate amounts necessary, in the judgment of said board of education, to be raised from levies against the valuation for assessment of all taxable property located within the boundaries of said school district for its general, bond redemption, transportation, and special building and technology funds to defray its expenditures therefrom during its then current fiscal year.

(II) This paragraph (b) is effective July 1, 1992.

(1.5) (a) The board of education of any school district, at a special election called for the purpose, shall submit to the eligible electors of the district the question of whether to impose a mill levy of a stated amount for the special building and technology fund or to increase the mill levy for the special building and technology fund by a stated amount, which levy shall not exceed ten mills in any year or exceed three years in duration. When a mill levy for more than one year has been approved, the board of education of any school district may, without calling an election, decrease the amount or duration of the mill levy in the second or third year.

(b) (I) Any special election called pursuant to this subsection (1.5) shall be held on the first Tuesday after the first Monday in February, May, October, November, or December and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(II) (Deleted by amendment, L. 92, p. 837, § 33, effective January 1, 1993.)

(c) (I) Repealed.

(II) and (III) (Deleted by amendment, L. 92, p. 837, § 33, effective January 1, 1993.)

(d) If a majority of the votes cast at the election are in favor of the question, the mill levy of the district for the special building and technology fund shall be as so approved by the eligible electors of the district, and taxes may be levied for the special building and technology fund of the district as so approved.



(1.7) (a) The board of education of any school district, at the regular biennial election for school district directors or on the dates authorized by section 22-54-108 for elections for additional local property tax revenues under the "Public School Finance Act of 1994" shall submit to the eligible electors of the district the question of whether to impose a mill levy for the payment of excess transportation costs. If a majority of the votes cast at any such election are in favor of the question, an additional mill levy shall be levied each year, and revenues received therefrom shall be deposited into the transportation fund of the district created in section 22-45-103 (1) (f).

(b) For the purposes of this subsection (1.7), "excess transportation costs" means the current operating expenditures for pupil transportation, as defined in section 22-51-102 (1), minus the total amount of the most recent payment actually received by the district under article 51 of this title, and annual expenditures for the purchase or lease of pupil transportation vehicles or other capital outlays related to pupil transportation. The calculation of excess transportation costs shall be based upon amounts expended and amounts received for the twelve-month period ending on June 30 prior to the certification of the mill levy.

(2) If only a portion of a school district is located within a county, the board of education of said school district shall certify the separate amounts to the board of county commissioners of each county wherein a portion of said school district is located. The board of county commissioners of each such county shall levy a tax upon the taxable property located within said portion of the school district included in its county at a rate sufficient to produce a pro rata share of each separate amount certified, such pro rata share to be based on the ratio of the valuation for assessment of taxable property located within that portion of said school district located within said county to the total valuation for assessment of taxable property located in the entire school district; except that the rate of tax levies for said district shall be the same throughout the territorial limits of said school district except for a variation in the tax levy needed for the bond redemption fund of said district, which rate may vary because of changes in the boundaries of said district or the dissolution of a former school district.

(3) The board of education of a school district which had an actual enrollment of more than fifty thousand pupils during the preceding school year may make the certification provided for in subsection (1) of this section no later than December 15.

(4) Repealed.

(5) (a) Whenever after a reorganization any school district has within its boundaries any territory which was located within the boundaries of a former school district which incurred bonded indebtedness, or is otherwise liable for the payment thereof, and the obligations of such bonded indebtedness have not been satisfied or otherwise assumed by said existing school district, then the board of education of the existing school district shall certify to the board of county commissioners the amount required during the next ensuing calendar year to satisfy such territory's proportionate share of the obligations of the outstanding bonded indebtedness incurred by said former school district. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the existing school district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy. This paragraph (a) shall be construed to be supplemental to and not in modification of section 22-42-122.

(b) Whenever two or more school districts or portions of school districts have been united, either by consolidation of whole districts or of parts of districts or by the detachment of territory from one school district and its annexation to another school district, and at the time of such uniting by any of the above methods there shall be united into one school district portions of any territory liable for the payment of bonded indebtedness, different either in amounts, dates of creation, or dates of interest or principal maturities, then, in certifying to the boards of county commissioners the statement of the amount necessary to be raised from levies pursuant to subsection (1) of this section, it is the duty of the board of education of such united district to also certify to the board of county commissioners the numbers of all school districts under which any portion of the united district had bonded

indebtedness outstanding at the time of such uniting, the legal description of the territory liable for the payment of such bonded indebtedness, or portion thereof, and the amount required during the ensuing calendar year to meet payments of interest and principal falling due therein. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the united school district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy. This paragraph (b) shall be construed to be supplemental to and not in modification of section 22-42-122.

(c) Repealed.

(6) Each school district, with such assistance as may be required from the department of education, shall inform the county treasurer for each county within the district's boundaries no later than December 15 of each year of said district's general fund mill levy in the absence of funds estimated to be received by said district pursuant to the "Public School Finance Act of 1994", article 54 of this title, and the estimated funds to be received for the general fund of the district from the state.

**Source:** L. 64: R&RE, p. 538, § 1. C.R.S. 1963: § 123-3-2. L. 69: p. 1054, § 26. L. 73: p. 1239, § 1. L. 74: (1) amended, p. 418, § 64, effective April 11. L. 78: (6) added, p. 373, § 9, effective July 1. L. 79: (3) amended, p. 791, § 1, effective May 25. L. 83: (1) amended and (1.5) added, p. 757, § 1, effective April 21. L. 86: (1.5)(b) R&RE and (1.5)(c)(I) repealed, pp. 812, 815, §§ 2, 8, effective July 1; (4) amended, p. 1021, § 9, effective January 1, 1987. L. 87: (1) amended, p. 1406, § 1, effective April 22. L. 88: (1) and (6) amended and (4) repealed, pp. 813, 824, §§ 17, 39, effective May 24. L. 89: (1) and (3) amended, p. 1462, § 22, effective June 7. L. 90: (1) and (5) amended, p. 1080, § 36, effective May 31. L. 91: (1) amended and (1.7) added, p. 539, § 4, effective May 1. L. 92: (1.5) amended, p. 837, § 33, effective January 1, 1993. L. 93: (1.7)(a) amended, p. 1782, § 51, effective June 6. L. 94: (1.7)(a) and (6) amended, p. 815, § 33, effective April 27; (5)(c) added, p. 1790, § 2, effective January 1, 1995. L. 97: (1)(b)(I), (1.5)(a), and (1.5)(d) amended, p. 75, § 2, effective March 24. L. 2006: (1.7)(b) amended, p. 669, § 10, effective April 28. L. 2008: (5)(c) repealed, p. 1899, § 77, effective August 5. L. 2009: (1.7)(b) amended, (SB 09-256), ch. 294, p. 1559, § 19, effective May 21. L. 2010: (1.7)(b) amended, (HB 10-1013), ch. 399, p. 1901, § 10, effective June 10.

**Editor's note:** Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective July 1, 1992. (See L. 90, p. 1080.)

## ANNOTATION

**Law reviews.** For comment, "Colorado Public School Financing: Constitutional Issues", see 59 U. Colo. L. Rev. 149 (1988).

**Annotator's note.** Cases relevant to § 22-40-102 decided prior to its earliest source, § 123-3-2, C.R.S. 1963, as amended, have been included in the annotations to this section.

**Levy provided by this section is not levying of taxes in the strict sense of the words.** This section does not provide for any levy or taxation for paying any public officers, or for aiding in or securing protection of life, liberty, and property. Nor is the levy and collection of taxes for the maintenance of a school system taxation for "defraying the expenses of the government" or "for the service of the government". The making of a tax levy for school purposes is not "levying of taxes in the strict sense of the words". Chicago, B. & Q. R. R. v. Sch. Dist. No. 1, 63 Colo. 159, 165 P. 260 (1917).

**Levy does not violate § 31 of art. V, Colo. Const.** An act for establishing a general system of free schools, providing for the levying and collection of taxes as incident to the main purpose, is not within the condemnation of § 31 of art. V, Colo. Const. Chicago, B. & Q. R. R. v. Sch. Dist. No. 1, 63 Colo. 159, 165 P. 260 (1917).

**Constitutionality of levy.** The statutorily imposed four-mill levy restriction prescribed for the capital reserve fund by subsection (4) is rationally related to a legitimate state purpose, and is therefore declared constitutional. Lujan v. Colo. State Bd. of Educ., 649 P.2d 1005 (Colo. 1982) (decided prior to 1988 repeal of subsection (4)).

**In the matter of levying the taxes, the board of county commissioners acts in a mere ministerial capacity.** Notwithstanding the letter of the statute, it is manifest that in the matter of



levying the taxes, the board of county commissioners act in a mere ministerial capacity as the agents of the state and the board of education of the proper district is vested with the sole discretionary power in the premises. *People ex rel. Sch. Dist. No. 2 v. County Comm'rs*, 12 Colo. 89, 19 P. 892 (1888); *Perkins v. People ex rel. McFarland*, 59 Colo. 107, 147 P. 356 (1915); *Bd. of Comm'rs v. Basalt Union High Dist.*, 82 Colo. 438, 261 P. 457 (1927); *Bolt v. Arapahoe County Sch. Dist. No. 6*, 898 P.2d 525 (Colo. 1995).

**Proceedings held sufficient compliance with section to authorize mandamus against commissioners to levy tax.** Where, at a special meeting of the district, a resolution is regularly adopted instructing the president and secretary of the board of education to certify to the county commissioners that it is necessary to levy a certain tax on the property of the district for a special fund, and this action is duly certified, there is a sufficient compliance with the requirements of the statute to authorize a proceeding by mandamus to compel the commissioners to levy

the tax. *People ex rel. Sch. Dist. No. 2 v. County Comm'rs*, 12 Colo. 89, 19 P. 892 (1888).

**When taxes are levied on property in school districts, the property of that district alone is subject to sale,** and though the party may own 50,000 other acres elsewhere located, the treasurer may not proceed in the enforcement of the taxes levied upon a particular 20,000 acres more or less, to sell 60,000 or 70,000 other acres outside of the district which may belong to the same owner. The treasurer must sell the property on which the taxes have been levied to collect the taxes levied on it, and cannot sell other property under his tax warrant to enforce the collection of those specific taxes on this specific property. *Shaw v. Lockett*, 14 Colo. App. 413, 60 P. 363 (1900).

**Levy was exempt from advance voter approval requirements under art. X, § 20, of state constitution** because action of board of education, which actually caused taxes to be levied, predated the adoption of that section. *Bolt v. Arapahoe County Sch. Dist. No. 6*, 898 P.2d 525 (Colo. 1995).

**22-40-103. Change in needed tax revenues - unlawful.** A board of education or a board of county commissioners shall not modify the amount certified pursuant to section 22-40-102 as needed for any calendar year, nor shall said board of county commissioners be charged with any discretion in determining or reviewing the amounts so certified other than to ascertain if said amounts are within the limitations as prescribed by law.

**Source: L. 64: R&RE, p. 540, § 1. C.R.S. 1963: § 123-3-3. L. 90:** Entire section amended, p. 1082, § 37, effective May 31.

**22-40-104. County treasurer - accounts - warrants.** (1) (a) It is the duty of the county treasurer to keep separate accounts by funds and subsidiary accounts for the bond redemption fund of each school district in his or her county, and said funds and accounts shall be subject to the warrants of said district. The tax revenues shall be credited to the proper fund and account, together with any penalty interest collected thereon.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), upon receipt of a notice from the state treasurer issued pursuant to section 22-41-110 (3), a county treasurer shall withhold from the school district named in the notice and forward to the state treasurer the amount of tax revenues specified in the notice that would otherwise be credited to the school district.

(2) If only a portion of a school district is situate within the territorial limits of said county and the headquarters of said school district are not located therein, the county treasurer shall transfer, at the end of each month, all moneys which have accrued to the credit of said district to the county treasurer of the county wherein the headquarters of said school district is located. No warrant shall be drawn by a school district situate in more than one county against its moneys except against those moneys in the custody of the county treasurer of the county wherein the school district headquarters is located.

(3) Except in the case of a school district which has elected to withdraw its moneys, if a school district warrant is presented to the county treasurer of a school district situate in his county and there are no moneys or insufficient moneys to the credit of said school district in the proper fund or account thereof to pay such warrant, it is the duty of said county treasurer to register such warrants in the order of presentment and endorse each such warrant "no funds". Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the manner as registered county warrants. The county treasurer shall keep a list of all warrants so registered and endorsed and furnish

a copy of said list to the treasurer of said school district. The county treasurer shall pay both the principal and interest of said warrants, in the order of registration, when there are sufficient moneys to the credit of the school district fund or account upon which any such warrant was drawn. It is his duty to cause to be published in a newspaper with general distribution in said school district for five days a notice that certain school district warrants, describing said warrants by numbers and amounts, will be paid upon presentation at the expiration of said five days notice, at which time said warrants shall cease to bear interest.

(4) It is unlawful for a school district to issue warrants in excess of the amount budgeted or appropriated to or the anticipated revenues for any fund, whichever is less, for said school district's fiscal year whether or not the board of education of said district has elected to withdraw its moneys from the custody of the county treasurer.

(5) It is the duty of the county treasurer to cancel all paid school district warrants with a proper cancelling stamp and indicate the date of payment thereof.

**Source:** L. 64: R&RE, p. 540, § 1. C.R.S. 1963: § 123-3-4. L. 84: (1) amended, p. 1002, § 1, effective March 16. L. 2003: (1) amended, p. 1299, § 6, effective April 22.

#### ANNOTATION

**Interest earned on school district tax moneys** must be credited to the proper school district account unless the district has elected to have its moneys paid over to the district treasurer at regular intervals. Calhan Sch. Dist. No. 1 v. El Paso County, 686 P.2d 1321 (Colo. 1984).

Interest earned on school district tax moneys prior to distribution to electing districts may be credited to the county general fund. Calhan Sch. Dist. No. 1 v. El Paso County, 686 P.2d 1321 (Colo. 1984).

**22-40-105. Depositories.** (1) When the board of education of a school district has elected to have all moneys belonging to the district paid over to the treasurer of said board, the treasurer, or such other custodian appointed by the board, shall deposit, or cause to be deposited, all such moneys in such depositories as shall be designated by such board.

(2) Repealed.

(3) Any moneys belonging to a school district which are temporarily not needed in the conduct of its operations may be invested or deposited by the board of education of such district pursuant to the provisions of sections 24-75-601 to 24-75-603, C.R.S. Subject to the requirements of part 7 of article 75 of title 24, C.R.S., the school district's moneys may be pooled for investment with the moneys of other local government entities.

(4) Notwithstanding the provisions of this section, the board of education of any school district may provide for the establishment, operation, and maintenance of refunding escrow agreements and accounts, and may provide for payment of principal and interest on the outstanding bonds of such district by paying agents, pursuant to the provisions of articles 42 and 43 of this title.

(5) Except as otherwise provided in section 22-45-103 (1) (b) (VI) or (1) (b) (VII), a third-party custodian selected by a school district shall administer the school district's bond redemption fund as provided in section 22-45-103 (1) (b) (V). Moneys in a school district's bond redemption fund may be invested by the custodian as provided in section 22-45-103 (1) (b) (V).

**Source:** L. 64: R&RE, p. 542, § 1. C.R.S. 1963: § 123-3-5. L. 75: (2) repealed, p. 392, § 6, effective January 1, 1976. L. 77: (1) amended, p. 576, § 6, effective June 10. L. 83: (3) amended, p. 1010, § 5, effective March 29. L. 2003: (5) added, p. 1296, § 2, effective April 22. L. 2004: (5) amended, p. 425, § 2, effective August 4.

**22-40-106. Registered warrants by treasurer of the board.** If a board of education has elected to withdraw all school district moneys from the temporary custody of the county treasurer, and there are no moneys or insufficient moneys to the credit of the proper fund of said school district on deposit with a depository to pay any warrant or order drawn against said fund, the treasurer of said board shall register said warrant in the same manner



as otherwise prescribed for a county treasurer under the provisions of section 22-40-104. Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the same manner as warrants registered by the county treasurer. The treasurer of said board shall perform all duties required of the county treasurer under section 22-40-104 (3) in the registration and payment of school district warrants registered by said treasurer of the board, including publication for notice of payment thereof.

**Source:** L. 64: R&RE, p. 543, § 1. C.R.S. 1963: § 123-3-6.

**22-40-107. Short-term loans.** (1) The board of education of any school district may negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the general fund and the amount credited to date to said general fund in order to eliminate the necessity of issuing registered warrants upon said general fund. Such loan shall be liquidated within six months of the close of the fiscal year from moneys subsequently credited to said general fund.

(2) Repealed.

**Source:** L. 64: R&RE, p. 543, § 1. C.R.S. 1963: § 123-3-7. L. 65: p. 973, § 1. L. 75: (2) amended, p. 786, § 7, effective July 1. L. 80: (1) amended, p. 556, § 1, effective April 13. L. 81: (2) repealed, p. 2026, § 22, effective July 14. L. 90: (1) amended, p. 1082, § 38, effective May 31.

**22-40-108. Revenues - reorganization.** (1) If the corporate status of a school district is dissolved as a result of school district organization and all the bonded indebtedness of such school district has not been assumed by one or more school districts, the board of education of the successor district as designated in the plan of organization shall perform the duties and exercise the powers delegated to the board of education of the former school district relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said former district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable; but the revenues from a tax levy, and the proportionate share of specific ownership taxes allocated thereto, to satisfy the bonded indebtedness of said former school district shall be held in a trust account in the bond redemption fund of the designated successor district for the purpose only of payment or redemption of bonds issued by said former school district. Any moneys remaining after all of the bonded indebtedness obligations of said former school district have been satisfied may be transferred to another account within the redemption fund of said designated successor school district or, in the absence of any outstanding bonded indebtedness obligations, to the capital reserve fund of said school district.

(2) If the corporate status of a school district is not dissolved as a result of school district organization, the board of education of the school district which incurred said bonded indebtedness shall continue to perform the duties and exercise the powers delegated thereto relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said school district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable even though a portion of the territory of said school district shall be thereafter included in another school district; but if the annexing school district is located in another county, such powers and duties shall be performed by the annexing school district with proper remittance to the school district from which said territory was detached.

**Source:** L. 64: R&RE, p. 543, § 1. C.R.S. 1963: § 123-3-8.

**22-40-109. Tax levy for school facilities improvements. (Repealed)**

**Source:** L. 92: Entire section added, p. 540, § 14, effective May 28.

**Editor’s note:** Subsection (3) provided for the repeal of this section, effective July 1, 1996. (See L. 92, p. 540.)

**22-40-110. Additional property tax for capital improvements in growth school districts.** (1) The board of education of any growth district, as defined in section 22-2-125 (1) (b), at any regular biennial school election or special election, may submit to the eligible electors of the growth district the question of the imposition of an additional property tax levy in accordance with the provisions of this section for:

- (a) One or more of the purposes specified in section 22-42-102 (2) (a) (I) to (2) (a) (V);
  - (b) The payment of any loan received by the growth district pursuant to section 22-2-125 and the payment of any interest due on such loan; or
  - (c) The payment of any loan received by the growth district pursuant to article 15 of title 23, C.R.S., and the payment of any interest due on such loan.
- (2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), a growth district may impose an additional property tax levy of no more than five mills or a number of mills as determined by dividing the latest statewide valuation for assessment of the taxable property in all school districts by the pupil enrollment of all school districts, and dividing said amount by the latest valuation for assessment of the taxable property in the growth district divided by the pupil enrollment of the growth district, whichever is the lesser amount.
- (b) If the amount as determined by dividing the latest valuation for assessment of the taxable property in a growth district by the pupil enrollment of the growth district is greater than the amount as determined by dividing the latest statewide valuation for assessment of the taxable property in all school districts by the pupil enrollment of all school districts, the growth district may impose an additional property tax levy of no more than one mill.
- (3) Moneys collected from such tax levy shall be credited to the capital reserve fund pursuant to section 22-45-103 (1) (c) (IV).
- (4) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

**Source:** L. 2002: Entire section added, p. 1745, § 18, effective June 7.

**ARTICLE 41**

**Public School Fund**

**Editor’s note:** This article was numbered as article 4 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For creation of the county and state public school funds, see §§ 22-54-113 and 22-54-114.

22-41-101.	Composition of fund.	22-41-104.	Lawful investments.
22-41-102.	Fund inviolate - repeal.	22-41-104.5.	Other financial transactions.
22-41-103.	Certain lands considered to be investments of fund.	22-41-105.	Income distinguished from principal.



22-41-106.	Disposition of income. (Repealed)	22-41-109.	Bond guarantee loans.
22-41-107.	Reports.	22-41-110.	Timely payment of school district obligations.
22-41-108.	Transfer of records.		

### **22-41-101. Composition of fund.**

- (1) (Deleted by amendment, L. 2006, p. 608, § 29, effective August 7, 2006.)
- (2) The public school fund of the state shall consist of the proceeds of such lands as have been, or may be, granted to the state by the federal government for educational purposes; all estates that may escheat to the state; all other grants, gifts, or devises that may be made to the state for educational purposes; and such other moneys as the general assembly may appropriate or transfer.
- (3) Notwithstanding the provisions of subsection (2) of this section, the proceeds from the sale or other disposition of state land pursuant to a nonsimultaneous exchange pursuant to section 36-1-124.5, C.R.S., shall not be deemed a part of the designated trust fund except as provided in section 36-1-124.5 (4), C.R.S.

**Source:** **L. 73:** R&RE, p. 1240, § 1. **C.R.S. 1963:** § 123-4-1. **L. 95:** Entire section amended, p. 607, § 3, effective May 22. **L. 96:** Entire section amended, p. 1795, § 11, effective June 4. **L. 97:** (3) added, p. 852, § 38, effective May 21. **L. 2006:** (1) and (2) amended, p. 608, § 29, effective August 7.

### **ANNOTATION**

**For previous inclusion of receipts from fines and penalties in school fund,** see *City & County of Denver v. Sch. Dist. No. 1*, 94 Colo. 406, 30 P.2d 866 (1934); *State v. Beckman*, 149

Colo. 54, 368 P.2d 793 (1961) (decided prior to earliest source of this section, § 123-4-1, C.R.S. 1963).

**22-41-102. Fund inviolate - repeal.** (1) The public school fund shall forever remain inviolate and intact; the interest and income earned on the deposit and investment of the fund only shall be expended in the maintenance of the schools of the state and shall be distributed to the several school districts of the state in such manner as may be prescribed by law. No part of said fund, principal or interest and income, shall ever be transferred to any other fund or used or appropriated, except as provided in this article and article 43.7 of this title. The state treasurer shall be custodian of the fund, and the same shall be securely and profitably invested as may be directed by law. The state, by appropriation, shall supply all losses of principal that may occur as determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104 (2).

(2) (Deleted by amendment, L. 2003, p. 2131, § 25, effective May 22, 2003.)

(3) (a) Except as provided in paragraph (b) of this subsection (3), for the 2010-11 state fiscal year and each state fiscal year thereafter, the first eleven million dollars of any interest or income earned on the investment of the moneys in the public school fund shall be credited to the state public school fund created in section 22-54-114 for distribution as provided by law. Prior to the 2013-14 state fiscal year, any amount of such interest and income earned on the investment of the moneys in the state public school fund in excess of eleven million dollars, other than interest and income credited to the public school capital construction assistance fund, created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2) (b) (I), shall remain in the fund and shall become part of the principal of the fund.

(b) (I) (A) For the 2011-12 state fiscal year, the first twenty-six million dollars of any interest or income earned on the investment of the moneys in the public school fund shall be credited to the state public school fund created in section 22-54-114 for distribution as provided by law. Any amount of such interest and income earned on the investment of the moneys in the public school fund in excess of twenty-six million dollars, other than interest and income credited to the public school capital construction assistance fund created in section 22-43.7-104 (1) pursuant to section 22-43.7-104 (2) (b) (I) shall remain in the fund and shall become part of the principal of the fund.

(B) This subparagraph (I) is repealed, effective July 1, 2013.

(II) (A) For the 2012-13 state fiscal year, all interest or income earned on the investment of the moneys in the public school fund not credited to the public school capital construction assistance fund created in section 22-43.7-104 (1) pursuant to section 22-43.7-104 (2) (b) (I) shall be transferred to the state public school fund created in section 22-54-114.

(B) This subparagraph (II) is repealed, effective July 1, 2014.

(c) For the 2013-14 state fiscal year and for each state fiscal year thereafter, any amount of interest or income earned on the investment of moneys in the public school fund in excess of eleven million dollars, other than interest and income credited to the public school capital construction assistance fund, created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2) (b) (I), shall be credited to the early literacy fund created in section 22-7-1210; except that the amount credited to the early literacy fund pursuant to this paragraph (c) shall not exceed sixteen million dollars in any state fiscal year.

**Source:** L. 73: R&RE, p. 1240, § 1. C.R.S. 1963: § 123-4-2. L. 77: Entire section amended, p. 1055, § 1, effective July 15. L. 2003: (2) amended and (3) added, p. 2131, § 25, effective May 22. L. 2008: (1) and (3) amended, p. 1062, § 3, effective July 1. L. 2009: (3) amended, (SB 09-260), ch. 200, p. 900, § 1, effective May 1. L. 2010: (3)(b) amended, (SB 10-150), ch. 108, p. 362, § 1, effective April 15; (3)(a) amended, (HB 10-1369), ch. 246, p. 1101, § 9, effective May 21. L. 2011: (3)(b) amended, (SB 11-230), ch. 305, p. 1467, § 8, effective June 9. L. 2012: (3)(b) amended, (SB 12-145), ch. 202, p. 805, § 1, effective May 24; (3)(a) amended and (3)(c) added, (HB 12-1238), ch. 180, p. 671, § 13, effective July 1.

**22-41-103. Certain lands considered to be investments of fund.** (1) All lands, title to which has or may become vested in the state as the result of foreclosure proceedings, shall be designated as “public school fund lands” and shall be considered an investment of the public school fund.

(2) Such lands shall be under the control and direction of the state board of land commissioners and may be disposed of by the board in the same manner as public school lands; except that any mineral rights acquired under said foreclosure proceedings may be sold with the land. The board shall keep a separate list of all such lands in its office.

**Source:** L. 73: R&RE, p. 1240, § 1. C.R.S. 1963: § 123-4-3.

#### ANNOTATION

**Annotator’s note.** Cases relevant to § 22-41-103 decided prior to its earliest source, § 123-4-3, C.R.S. 1963, have been included in the annotations to this section.

**The investment in the state of the right to become the purchaser at foreclosure sale constitutes a safeguard against loss** which might otherwise result from a borrower’s failure to repay a loan, and whatever may be realized from subsequent sale of the property diminishes correspondingly the amount necessary for reimbursement of the school fund. *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917).

**The right to purchase does not impose any liability upon the state.** Under this section the state, acting through its proper agents, may become the purchaser of the real estate securing the loan at a foreclosure sale thereof, but it is equally true that it need not become such purchaser. It may resort to any lawful “procedure that may be necessary and appropriate” in the collection of the loan. The statute does not, either directly or indirectly, impose upon the state any liability in the premises. *Leddy v. People ex rel. Farrar*, 59 Colo. 120, 147 P. 365 (1915); *People ex rel. Miller v. Higgins*, 69 Colo. 79, 168 P. 740 (1917).

**22-41-104. Lawful investments.** (1) The state treasurer in the state treasurer’s discretion may invest and reinvest moneys accrued or accruing to the public school fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and bonds issued by school districts.

(2) The state treasurer has authority, to be exercised at the state treasurer’s discretion,



to effect exchanges or sales whenever such exchanges or sales will not result in any ultimate loss of principal and to effect exchanges or sales that will result in a loss of principal whenever such loss can be offset by a corresponding gain within three fiscal years of such exchange or sale. No exchange or sale of securities shall be consummated by the state treasurer that will result in a net loss of principal unless the general assembly has previously appropriated a sum to the public school fund equivalent to the anticipated net loss of principal from such exchange or sale.

(3) (Deleted by amendment, L. 97, p. 375, § 6, effective August 6, 1997.)

**Source:** L. 73: R&RE, p. 1241, § 1. C.R.S. 1963: § 123-4-4. L. 77: (2) amended and (3) added, p. 1055, § 2, effective July 15. L. 78: (2) amended, p. 264, § 56, effective May 23, 1979. L. 81: (1)(a) amended, p. 1069, § 1, effective May 21. L. 88: (1)(f) and (1)(g) added, p. 950, § 2, effective March 24. L. 92: (1)(f) amended and (1)(h) to (1)(j) added, p. 1112, § 2, effective July 1. L. 97: IP (1) amended and (1)(c.3) added, p. 852, § 39, effective May 21; entire section amended, p. 375, § 6, effective August 6. L. 2002: (2) amended, p. 1793, § 56, effective June 7.

**Editor's note:** Amendments to subsection (1) by Senate Bill 97-206 and Senate Bill 97-150 were harmonized.

**Cross references:** For provisions for legal investments for governmental units, see § 24-75-601.1.

#### ANNOTATION

**Annotator's note.** Cases relevant to § 22-41-104 decided prior to its earliest source, § 123-4-1, C.R.S. 1963, have been included in the annotations to this section.

**For previously permitted investments in loans on cultivated farmlands or ranches,** see

People ex rel. Miller v. Higgins, 69 Colo. 79, 168 P. 740 (1917).

**For previous direction of investments by board of land commissioners,** see Denver & R. G. W. R. R. v. Town of Castle Rock, 99 Colo. 340, 62 P.2d 1164 (1936).

**22-41-104.5. Other financial transactions.** (1) The state treasurer may engage in financial transactions whereby:

(a) Obligations are purchased with moneys accrued or accruing to the public school fund under an agreement providing for the resale of such obligations to the original seller at a stated price together with a payment to the fund of interest for the period the fund holds the obligations, but the market value of such obligations shall at all times be at least equal to the total purchase price;

(b) Obligations owned by the fund are sold under an agreement providing for the repurchase of such obligations by the fund at a stated price together with the payment to the buyer of interest for the period the buyer holds the obligations;

(b.5) Loans are made to school districts under the provisions of section 3 of article IX of the state constitution;

(c) Obligations owned by the fund are delivered to reputable and financially responsible dealers in such obligations under an agreement which provides:

(I) For the replacement thereof with obligations of the same kind and amount upon demand therefor by the state treasurer; and

(II) For the payment to the state treasury by said dealer of a commission or other compensation, based upon the amount of such obligations, for the period of time between the delivery of such obligations to such dealer and the replacement thereof; and

(III) For the pledge and delivery by said dealer to the state treasury of other obligations which are lawful investments having a market value at all times equal to at least the market value of the obligations so delivered to guarantee the replacement of such obligations.

(d) (Repeal provision deleted by revision.)

(2) The state treasurer may make such arrangements for the custody, safekeeping, and registration of obligations as will enable him to make prompt delivery thereof upon maturity or in the event of sale.

**Source:** **L. 77:** Entire section added, p. 1058, § 1, effective June 1; (1)(b) and (1)(c) repealed, p. 1059, § 1, effective July 1. **L. 81:** (1)(b) and (1)(c) RC&RE, p. 1069, § 2, effective May 21. **L. 97:** (1)(b.5) added, p. 852, § 40, effective May 21.

**Editor's note:** Subsection (1)(d) provided for the repeal of subsections (1)(b) and (1)(c), effective July 1, 1979. (See L. 77, p. 1058.) Subsections (1)(b) and (1)(c) were recreated and reenacted, and subsection (1)(d) was therefore deleted by revision as obsolete.

**22-41-105. Income distinguished from principal.** Any amount paid as a premium for an interest-bearing obligation in excess of the amount realized upon disposition of said obligation shall be recovered as a return of principal out of interest thereafter derived from the public school fund. Such recovery shall be made and recorded on a systematic basis applied consistently from year to year.

**Source:** **L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-5. **L. 77:** Entire section amended, p. 1056, § 3, effective July 15.

**22-41-106. Disposition of income. (Repealed)**

**Source:** **L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-6. **L. 96:** Entire section amended, p. 1008, § 1, effective July 1, 1997. **L. 97:** Entire section amended, p. 589, § 23, effective April 30. **L. 2008:** Entire section repealed, p. 1063, § 4, effective July 1.

**22-41-107. Reports.** (1) The state treasurer shall furnish a quarterly report to the state board of land commissioners showing the investment transactions effected and the amount of investment income collected during the preceding three-month period.

(2) Repealed.

**Source:** **L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-7. **L. 75:** (2) amended, p. 802, § 2, effective June 20. **L. 77:** (2) amended, p. 1056, § 4, effective June 15. **L. 98:** (2) repealed, p. 1076, § 7, effective June 1.

**22-41-108. Transfer of records.** On July 1, 1973, the state board of land commissioners shall deliver to the state treasurer all records relating to investments of the public school fund made by the board.

**Source:** **L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-8.

**22-41-109. Bond guarantee loans.** (1) The general assembly hereby finds that school districts of this state are experiencing great need for improved school facilities; that, although the issuance of school bonds can pave the way for improved facilities, such bonds must be marketable and their interest rate must be competitive in order to benefit the district; that, if the risk assumed by school bond purchasers was diminished, interest rates would generally be reduced; that the use of permanent school funds to guarantee payments of principal and interest, with appropriate safeguards for the public school fund, is consistent with the purpose for which the fund was created; and that section 3 of article IX of the state constitution specifically authorizes the use of the public school fund of the state for the purposes of this section.

(2) The state treasurer is authorized to contract with school districts in this state for the guarantee of payments of principal and interest on the district's bonds as such payments become due. The state treasurer shall not enter into such contract if the guarantee would result in the total amount of outstanding guaranteed bonds exceeding an amount equal to three times the market value of the public school fund. Each year the state treasurer shall analyze the status of guaranteed bonds as compared to the book value and market value of the public school fund and shall certify whether the amount of bonds guaranteed is within the limit prescribed by this subsection (2).



(3) The board of education of a school district desiring to enter into a guarantee contract authorized by this section shall include, in the resolution submitting the question of issuing bonds to the registered electors of the school district, a statement that the school district intends to contract with the state treasurer for the guarantee of principal and interest payments to holders of such bonds. The resolution shall set forth, and any resulting guarantee contract shall provide, that the district shall repay any loan of public school funds with interest as provided in subsection (4) of this section by the end of the calendar year next following the close of the fiscal year in which the loan was made, out of any available funds of the school district or out of the proceeds of a levy on the taxable property of the school district at a rate sufficient to produce the amount required to repay the loan. No guarantee contract shall be executed pursuant to this section unless the registered electors of the school district have approved such provisions for the contract by their vote approving the issuance of bonds.

(4) Any guarantee contract authorized by this section shall include a provision requiring the payment of interest on loans made pursuant to the contract at the prevailing rate of interest being earned by investments of the public school fund on the date the loan is made.

(5) A board of education seeking the guarantee of eligible bonds shall notify the commissioner of education and the state treasurer indicating the name of the school district and the principal amount of the bonds to be issued, the name and address of the school district's paying agent for the bonds, the maturity schedule, the estimated interest rate, and the date of the bonds.

(6) After receipt of the request for the guarantee of bonds, the commissioner of education shall review the applicant school district regarding the school district's accreditation category, the school district's financial status based on its audited financial statements for the previous three years, and the total amount of the school district's bonded indebtedness in relation to the limitation on indebtedness provided by law. If, after the investigation, the commissioner of education is satisfied that the school district's bonds should be guaranteed under this section, the commissioner of education shall endorse the request for the bond guarantee to the state treasurer.

(7) Whenever the paying agent has not received payment of principal of or interest on bonds or other obligations to which this section applies fifteen business days immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the school district by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the school district and determine whether the school district will make the payment by the date on which it is due.

(8) If the school district indicates that it will not make the payment by the date on which it is due, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the bonds or other obligations of the school district to the paying agent on the business day immediately prior to the date on which payment is due. Such payment shall constitute a loan to the school district from the public school fund in accordance with the terms of the guarantee contract.

(9) In order to assure sufficient liquidity to meet obligations under the provisions of this section, the state treasurer shall invest moneys in the public school fund in an amount equal to at least ten percent of the principal amount of bonds guaranteed under this section in interest-bearing obligations of the United States as provided in section 22-41-104 (1) (d) with maturity dates of three years or less.

(10) The amounts forwarded to the paying agent by the state treasurer shall be applied to the paying agent solely to the payment of the principal of or interest on such bonds or other obligations of the school district.

(11) Any school district to which this section applies shall file with the state treasurer a copy of the resolution that authorizes the issuance of bonds or other obligations, a copy of the official statement or other offering document for such bonds or other obligations, the agreement, if any, with the paying agent for such bonds or other obligations, and the name, address, and telephone number of such paying agent.

(12) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of bonds and other obligations issued by school

districts that the state will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section; but nothing in this subsection (11) shall be deemed or construed to require the state to continue the payment of state assistance to any school district or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to school districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

(13) Whenever the state treasurer is required by this section to make a payment of principal of or interest on bonds or other obligations on behalf of a school district, the department of education shall initiate an audit of the school district to determine the reasons for the nonpayment and to assist the school district, if necessary, in developing and implementing measures to assure that future payments will be made when due.

(14) Whenever the state treasurer makes a payment of principal and interest on bonds or other obligations of a school district because of the failure to collect property taxes levied in accordance with law for the school district's bond redemption fund, the district may transfer any such delinquent property taxes later collected out of the school district's bond redemption fund and into its general fund.

(15) In the event that any public school fund moneys are lost by reason of the failure of any school district to repay a loan made pursuant to this section, the general assembly shall restore such public school fund moneys, together with such interest as would have accrued thereto, by an appropriation in the amount of such loss from the general fund of the state.

(16) If two or more repayments from the public school fund are made on the guaranteed bonds of a school district and the commissioner of education determines that the school district is acting in bad faith under the guarantee, the commissioner of education may request the attorney general to institute appropriate legal action to compel the school district governing board to comply with the duties required by law in regard to the bonds.

**Source:** L. 73: R&RE, p. 1243, § 1. C.R.S. 1963: § 123-4-9. L. 87: (4) amended, p. 316, § 51, effective July 1. L. 90: (3)(b) and (4) amended, p. 1082, § 39, effective May 31. L. 91: Entire section repealed, p. 543, § 2, effective July 1. L. 97: Entire section RC&RE, p. 852, § 41, effective May 21. L. 2009: (6) amended, (SB 09-163), ch. 293, p. 1544, § 49, effective May 21.

**22-41-110. Timely payment of school district obligations.** (1) (a) The state treasurer, on behalf of a school district, shall make payment as provided in this section of principal and interest on bonds or other obligations to which this section applies, unless the school district board of education adopts a resolution stating it will not accept payment on behalf of the school district of principal and interest on bonds or other obligations as provided in this section. If a school district chooses to adopt such a resolution, it shall be adopted prior to issuance or incurrence of the bonds or obligations to which it applies. Following adoption of the resolution, the school district shall provide written notice to the state treasurer of its refusal to accept the payment. The refusal to accept payment shall take effect upon the date the state treasurer receives the written notice and shall continue in effect until the date the state treasurer receives written notice from the school district that the school district board of education has adopted a resolution rescinding the refusal to accept payment pursuant to this section. Notwithstanding any provision of subsections (2) to (8) of this section to the contrary, the state treasurer shall not make payment of principal or interest on bonds or other obligations on behalf of a school district that provides written notice of its refusal to accept payment by the state treasurer on behalf of the school district as provided in this paragraph (a), until the state treasurer receives written notice of the rescission of refusal to accept payment.

(b) This section applies to:

(I) General obligation bonds issued by a school district on or after July 1, 1991, pursuant to article 42 or 43 of this title; except that this section shall not apply to bonds issued by a school district pursuant to section 22-42-102 (2) (a) (IX);



(II) Obligations of a school district in connection with a lease agreement or installment purchase agreement entered into by a school district under section 22-32-127 or 22-45-103 (1) (c) on or after July 1, 1991;

(III) Refunding bonds issued by a school district pursuant to article 56 of title 11, C.R.S.; and

(IV) Obligations of a school district in connection with a loan received under the renewable energy and energy efficiency for schools loan program created in section 22-92-104.

(2) Whenever the paying agent has not received payment of principal of or interest on bonds or other obligations to which this section applies on the business day immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the school district, by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the district and determine whether the district will make the payment by the date on which it is due.

(3) If the district indicates that it will not make the payment by the date on which it is due, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the bonds or other obligations of the school district to the paying agent. The state treasurer shall recover the amount forwarded by withholding amounts from the school district's payments of the state's share of the district's total program received in accordance with article 54 of this title and from property tax and specific ownership tax revenues collected by the county treasurer on behalf of the school district; except that the state treasurer may not recover amounts from property tax revenues that are pledged to pay notes or bonds issued by the school district. The total amount withheld in a month from the state's share of total program and the tax revenues due to the school district for each occasion on which the treasurer forwards an amount pursuant to this section shall not exceed one-twelfth of the amount forwarded; except that the state treasurer, in one or more months during the twelve-month withholding period, may withhold more than one-twelfth of the amount forwarded, if the school district in one or more months during the twelve-month withholding period receives total program and tax revenues in an amount that is less than one-twelfth of the amount forwarded. The state treasurer shall not withhold for more than twelve consecutive months for each occasion on which the treasurer forwards amounts pursuant to this section. The state treasurer, in writing, shall notify the county treasurer for the school district of the amount of tax revenues to be withheld pursuant to this subsection (3) and the period of withholding. Notwithstanding any provision of this subsection (3) to the contrary, a school district may elect to make early repayment of all or any portion of an amount forwarded by the state treasurer on behalf of the school district pursuant to this section. When a school district fully repays an amount forwarded by the state treasurer on behalf of the school district pursuant to this section, the state treasurer, in writing, shall notify the county treasurer for the school district to discontinue the withholding of tax revenues.

(4) The amounts forwarded to the paying agent by the state treasurer shall be applied by the paying agent solely to the payment of the principal of or interest on such bonds or other obligations of the school district. The state treasurer shall notify the department of education, the chief financial officer of the district, and the general assembly of amounts withheld and payments made pursuant to this section.

(5) Any school district to which this section applies shall file with the state treasurer a copy of the resolution which authorizes the issuance of bonds or other obligations, a copy of the official statement or other offering document for such bonds or other obligations, the agreement, if any, with the paying agent for such bonds or other obligations, and the name, address, and telephone number of such paying agent. The failure of any school district to file such information shall not affect the obligation of the state treasurer to withhold the state's share of the district's total program and the district's tax revenues under this section.

(6) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of bonds and other obligations issued by school districts that it will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section;

but nothing in this subsection (6) shall be deemed or construed to require the state to continue the payment of state assistance to any school district or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to school districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

(7) Whenever the state treasurer is required by this section to make a payment of principal of or interest on bonds or other obligations on behalf of a school district, the department of education shall initiate an audit of the district to determine the reason for the nonpayment and to assist the district, if necessary, in developing and implementing measures to assure that future payments will be made when due.

(8) Whenever the state treasurer makes a payment of principal and interest on bonds or other obligations of a school district and withholds amounts from the district’s payments of the state’s share of the district’s total program and from the district’s unpledged tax revenues pursuant to this section because of the failure to collect property taxes levied in accordance with law for the district’s bond redemption fund, the district may transfer, or may instruct the third-party custodian that administers the district’s bond redemption fund to transfer, any such delinquent property taxes later collected out of the district’s bond redemption fund and into its general fund.

**Source:** **L. 91:** Entire section added, p. 541, § 1, effective July 1. **L. 94:** (3), (5), and (8) amended, p. 815, § 34, effective April 27. **L. 95:** (1) amended, p. 608, § 4, effective May 22. **L. 2003:** (1), (3), (5), and (8) amended, p. 1297, § 5, effective April 22. **L. 2009:** (1)(b) amended, (HB 09-1312), ch. 253, p. 1144, § 2, effective August 5. **L. 2010:** (1)(b)(I) amended, (SB 10-205), ch. 313, p. 1471, § 3, effective May 27.

**Cross references:** (1) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2011, see sections 1 (§ 22-92-102) and 5 of chapter 253, Session Laws of Colorado 2009. To obtain a copy of the review, once completed, view Colorado Legislative Council’s web site.

(2) For the legislative declaration in the 2010 act amending subsection (1)(b)(I), see section 1 of chapter 313, Session Laws of Colorado 2010.

ARTICLE 41.5

Voter Approval for Weakening  
of Debt Limitations on School Districts

22-41.5-101.	Legislative declaration.	22-41.5-102.	Voter approval - weakening of limits on school district debt.
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**22-41.5-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) In performing its duties under sections 2 and 15 of article IX, section 20 of article X, and section 6 of article XI of the state constitution, the general assembly must balance the interests of achieving a thorough and uniform public school system, controlling public debt, preserving a limited degree of local control, and reasonably restraining most the growth of government;

(b) In balancing these constitutional interests through the exercise of its legislative authority, the general assembly has enacted limitations on the ability of school districts to incur indebtedness;

(c) A statutory restriction has been imposed on the amount of bonded indebtedness that school districts can incur with voter approval for capital improvements;

(d) From time to time, changes to such limitations imposed on school districts are necessary in order to keep these constitutional interests properly balanced in light of changing circumstances;



(e) Section 20 (1) of article X of the state constitution prohibits the weakening of "other limits on district revenue, spending, and debt" without future voter approval;

(f) No change in school district debt occurs by virtue of statutory changes that increase a limit when the debt would not actually increase without school district voter approval and any actual weakening occurs only when school district voter approval is obtained under an increased limit; and

(g) By requiring voters to give approval at the school district level for any weakening of a school district limit on debt, the voter approval requirement of section 20 (1) of article X is satisfied in a manner achieving a reasonable result through legislative harmonization of constitutional provisions.

**Source: L. 95:** Entire article added, p. 1017, § 1, effective May 25.

## **22-41.5-102. Voter approval - weakening of limits on school district debt.**

(1) Whenever any provision of this title imposes a limitation on the debt of school districts and the voters of a school district are required by law to approve any change in debt subject to the limitation, the general assembly shall not be required to seek statewide voter approval to amend the statutory provision that imposes the limitation.

(2) For purposes of section 20 (1) of article X of the state constitution, any weakening of a limitation on a school district's debt shall occur only when voter approval at the school district level is obtained, and voter approval of the measure at the school district level shall satisfy any voter approval requirement of section 20 (1) of article X.

(3) Any ballot question seeking voter approval of a weakening of any limitation on school district debt may be submitted to the eligible electors of a school district as a separate ballot question or as part of a ballot question including other ballot issues, such as the authorization of bonded indebtedness.

**Source: L. 95:** Entire article added, p. 1018, § 1, effective May 25.

## **ARTICLE 42**

### **Bonded Indebtedness**

**Editor's note:** This article was numbered as article 11 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

22-42-101.	Definitions.	22-42-111.	Count and canvass. (Repealed)
22-42-102.	Bonded indebtedness - elections.	22-42-112.	Absentee voting. (Repealed)
22-42-103.	Limitations on elections.	22-42-113.	Use of voting machines. (Repealed)
22-42-104.	Limit of bonded indebtedness.	22-42-114.	Board may issue bonds - exemption from Colorado income tax.
22-42-104.5.	Pro rata distribution of bond revenues to qualified charter schools. (Repealed)	22-42-115.	Form of bonds.
22-42-105.	Voting precincts. (Repealed)	22-42-116.	Sale at less than par - discount.
22-42-106.	Ballots. (Repealed)	22-42-117.	Board to certify needed revenues.
22-42-107.	Concurrent election for directors and bonds. (Repealed)	22-42-118.	Tax levy to pay principal and interest.
22-42-108.	Pollbooks - certificate of return. (Repealed)	22-42-119.	Bond fund - payment and redemption.
22-42-109.	Registration. (Repealed)	22-42-120.	Place of payment.
22-42-110.	Registration list omissions - challenges - oath - rejection of vote. (Repealed)		

22-42-121.	Registration of bonds.	22-42-126.	Validation.
22-42-122.	Changes in boundaries - liability.	22-42-127.	Validation - effect - limitations.
22-42-123.	Validation. (Repealed)	22-42-128.	Effect of article X, section 20 on bonded indebtedness authorized prior to November 4, 1992.
22-42-124.	Prior obligations not impaired. (Repealed)		
22-42-125.	Public disclosure of terms of sale.	22-42-129.	Limitation on actions.

**22-42-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(1.5) Repealed.

(2) "Eligible elector" means a person who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(3) "Net effective interest rate" of a proposed issue of bonds means the net interest cost of the issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "Net interest cost" of a proposed issue of bonds means the total amount of interest to accrue on said bonds from their date to their respective maturities, plus the amount of any discount below par, or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(5) "Registered elector" means an elector who has complied with the registration provisions of this article.

(6) "School district" or "district" means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source:** L. 64: R&RE, p. 545, § 1. C.R.S. 1963: § 123-11-1. L. 70: p. 330, § 1. L. 71: pp. 1148, 1151, §§ 1, 9. L. 75: (6) amended, p. 787, § 8, effective July 1. L. 87: (2) and (5) amended, p. 316, § 52, effective July 1. L. 92: (2) amended, p. 839, § 34, effective January 1, 1993. L. 94: (1.5) added, p. 1790, § 3, effective January 1, 1995. L. 96: (6) amended, p. 65, § 23, effective July 1. L. 2008: (1.5) repealed, p. 1900, § 78, effective August 5. L. 2012: (4.5) added, (HB 12-1090), ch. 44, p. 153, § 16, effective March 22.

#### ANNOTATION

This article covers the entire subject of contracting indebtedness by school districts, and it was intended to supersede all former statutes on the subject. *Krogh v. Danielson*, 73

Colo. 135, 213 P. 996 (1923) (decided prior to earliest source of this section, § 123-11-1, as amended, 1964).

**22-42-102. Bonded indebtedness - elections.** (1) No debt by loan in any form shall be contracted by any school district for the purposes specified in paragraph (a) of subsection (2) of this section, unless the proposition to create the debt has first been submitted to and approved by the eligible electors of the district.

(2) (a) The board of education of any school district, at any regular biennial school election or at a special election called for the purpose, shall submit to the eligible electors of the district the question of contracting a bonded indebtedness for one or more of the following purposes:



- (I) For acquiring or purchasing buildings or grounds;
- (II) For enlarging, improving, remodeling, repairing, or making additions to any school building;
- (III) For constructing or erecting school buildings;
- (IV) For equipping or furnishing any school building, but only in conjunction with a construction project for a new building or for an addition to an existing building or in conjunction with a project for substantial remodeling, improvement, or repair of an existing building;
- (V) For improving school grounds;
- (VI) For funding floating indebtedness;
- (VII) For acquiring, constructing, or improving any capital asset that the district is authorized by law to own;
- (VIII) For supporting charter school capital construction as defined in section 22-30.5-403 (4) or the land and facilities needs of a charter school as defined in section 22-30.5-403 (3), without title or ownership of charter school capital assets being held by the school district or ownership or use restrictions placed on the charter school by the school district; or
- (IX) (A) Subject to the provisions of sub-subparagraph (B) of this subparagraph (IX), for paying the costs that may be paid from the general fund of the school district; except that bonded indebtedness may be issued for such purpose only if amendment 61 is approved by the voters at the general election held on November 2, 2010, and the eligible electors of the school district approve a question to create debt for such purpose at an election held on or after November 2, 2010.

(B) The board of education of a district that issues bonded indebtedness pursuant to sub-subparagraph (A) of this subparagraph (IX) shall deposit any moneys from such bonded indebtedness into a cash flow deficit restricted reserve in the general fund of the district. The board of education of such a district may expend the moneys deposited in the reserve only for the purpose of alleviating the district's annual temporary cash flow deficit and shall repay, from the property tax revenues of the district, the total amount expended from the reserve in any fiscal year on or before June 30 of the applicable fiscal year; except that such board of education may request that the department of education waive the requirement to repay the reserve by June 30 of the applicable fiscal year. If the department grants such a waiver, the board of education of the district shall repay the total amount expended from the reserve on or before June 30 of the fiscal year following the fiscal year in which the board expended moneys from the reserve. Notwithstanding the provisions of this sub-subparagraph (B), if a district that has issued bonded indebtedness pursuant to sub-subparagraph (A) of this subparagraph (IX) no longer experiences an annual temporary cash flow deficit, the district shall use the moneys in the reserve to repay outstanding bonded indebtedness issued pursuant to this section.

(b) The purposes specified in paragraph (a) of this subsection (2) shall be broadly construed, subject to the limitations provided in section 22-42-103.

(c) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(d) Repealed.

(3) to (5) (Deleted by amendment, L. 92, p. 839, § 35, effective January 1, 1993.)

(6) (a) The board of education of any school district, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may submit at another regular or special election the question of issuing the bonds, or any portion thereof, at a higher principal amount or higher repayment cost than approved at the original election.

(b) An election held pursuant to this subsection (6) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question or questions permitted under this subsection (6).

(c) If a majority of those voting at an election held pursuant to this subsection (6) fails to approve the changes submitted, such result shall not impair the authority of the board at a later time to issue the bonds originally approved within the limitations established at the first election.

**Source:** L. 64: R&RE, p. 547, § 1. C.R.S. 1963: § 123-11-3. L. 70: p. 331, § 2. L. 71: pp. 1148, § 2. L. 73: p. 1249, § 1. L. 77: (1) and (2) amended, p. 1061, § 1, effective June 19. L. 86: (2)(c) added and (3) R&RE, p. 812, §§ 3, 4, effective July 1. L. 87: (1) and IP(2)(a) amended, p. 316, § 53, effective July 1. L. 92: (1), IP(2)(a), (2)(c), and (3) to (5) amended, p. 839, § 35, effective January 1, 1993. L. 94: (2)(c) amended, p. 1187, § 81, effective July 1; (2)(d) added, p. 1790, § 4, effective January 1, 1995. L. 2008: (2)(a)(V) and (2)(a)(VI) amended and (2)(a)(VII) added, p. 1211, § 24, effective May 22; (2)(d) repealed, p. 1900, § 79, effective August 5. L. 2009: (2)(a)(VI) and (2)(a)(VII) amended and (2)(a)(VIII) added, (SB 09-176), ch. 247, p. 1117, § 4, effective August 5. L. 2010: (2)(a)(VII) and (2)(a)(VIII) amended and (2)(a)(IX) added, (SB 10-205), ch. 313, p. 1470, § 2, effective May 27; (6)(a) amended, (HB 10-1013), ch. 399, p. 1898, § 4, effective June 10.

**Editor's note:** Amendment 61 referenced in subsection (2)(a)(IX) was not approved at the general election held on November 2, 2010, with the following vote count:

FOR:	473,716
AGAINST:	1,280,302

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (2)(a)(V) and (2)(a)(VI) and enacting subsection (2)(a)(VII), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsections (2)(a)(VII) and (2)(a)(VIII) and adding subsection (2)(a)(IX), see section 1 of chapter 313, Session Laws of Colorado 2010.

## ANNOTATION

**Annotator's note.** Cases relevant to § 22-42-102 decided prior to its earliest source, § 123-11-3, C.R.S. 1963, as amended, have been included in the annotations to this section.

**This section provides for an election for creating a bonded indebtedness rather than a meeting.** Sch. Dist. No. 1 v. Gerold, 76 Colo. 555, 233 P. 162 (1925).

**The function of the board is to propose and suggest an amount of bonded indebtedness.** The amount of the bonded indebtedness proposed to be contracted and the maximum rate of interest that it is proposed the bonds will bear, is to be determined by the board of education prior to the submission of the question of authorization to the electors. Hebel v. Sch. Dist. R-1, 131 Colo. 105, 279 P.2d 673 (1955).

**The function of the electors is to determine whether the bonds shall be issued.** Hebel v. Sch. Dist. R-1, 131 Colo. 105, 279 P.2d 673 (1955).

**The fixing or the proposal of the amount is for a future indebtedness and not one as fixed or limited at the time of the calling of an election or of the date of the election.** Hebel v. Sch. Dist. R-1, 131 Colo. 105, 279 P.2d 673 (1955).

**Proposal must not exceed statutory limits.** Where bonds issued exceeded the limits of § 22-42-104, they could not be issued even had they been approved by the electors. Atchison, T.

& S. F. Ry. v. Bd. of County Comm'rs, 95 Colo. 435, 37 P.2d 761 (1934).

**A vote of the electors instructing the directors to issue bonds for building a school house necessarily involves, as a part of the authority conferred, power to build the school house.** Krogh v. Danielson, 73 Colo. 135, 213 P. 996 (1923).

**Multiple facilities may be submitted to voters in single proposition.** A school bond election may relate to acquisition, construction, and equipping of separate school facilities without offending requirements that the submission of such matters to the voters be limited to a single proposition or purpose. Abts v. Bd. of Educ., 622 P.2d 518 (Colo. 1980).

**Test for determination of single purpose.** The test applied to determine the validity of a bond issue having more than one object, or funding more than one structure, is whether there exists a natural relationship between the various structures or objects united in one proposition so that they form but one rounded whole. Abts v. Bd. of Educ., 622 P.2d 518 (Colo. 1980).

**Notice for bond election held sufficient.** Abts v. Bd. of Educ., 622 P.2d 518 (Colo. 1980).

**For previous requirement of being a "qualified taxpaying elector",** see Moguez v. Sch. Dist. No. 64, 109 Colo. 551, 128 P.2d 480 (1942); Felzien v. Sch. Dist. RE-3 Frenchman,



152 Colo. 92, 380 P.2d 572 (1963); Russell v. Wheeler, 165 Colo. 296, 439 P.2d 43 (1968); Crowe v. Wheeler, 165 Colo. 289, 439 P.2d 50 (1968).

**Applied** in Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

**22-42-103. Limitations on elections.** The question of contracting bonded indebtedness may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this article; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of contracting bonded indebtedness at more than two elections within any twelve-month period. The provisions of this section shall not apply to elections on assumption of existing bonded indebtedness held pursuant to law.

**Source:** L. 64: R&RE, p. 547, § 1. C.R.S. 1963: § 123-11-4. L. 70: p. 332, § 3.

**22-42-104. Limit of bonded indebtedness.** (1) Except as provided in subsections (1.3) and (1.4) of this section, a school district shall have a limit of bonded indebtedness of the greater of the following:

(a) Twenty percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners; or

(b) Six percent of the most recent determination of the actual value of the taxable property in the district, as certified by the county assessor to the board of county commissioners.

(1.2) For bonded indebtedness issued after June 1, 2011, the valuation for assessment of taxable property for the purposes of this section shall be the valuation for assessment of taxable property in the district as it existed on the December 10 prior to the date of issuance of the bonded indebtedness. The county assessor for the board of county commissioners shall report the valuation for assessment of taxable property in the district to the district and the department of education on each December 10.

(1.3) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section and except as provided in subsection (1.4) of this section, the limit on bonded indebtedness of a school district shall be the greater of the limit determined pursuant to paragraph (b) of subsection (1) of this section or twenty-five percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners, for any bonded indebtedness approved at any election held on or after July 1, 1994, if the commissioner of education or the commissioner's designee certifies that for each of the preceding three fiscal years, or for three consecutive fiscal years that include the fiscal year in which the certification is made, the pupil enrollment or the funded pupil count of the district as of the pupil enrollment count day, whichever is applicable, has increased:

(a) By two and one-half percent or more over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of at least one thousand pupils;

(b) By twenty-five or more pupils over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of less than one thousand pupils.

(1.4) For any bonded indebtedness approved at the 2008 general election, the limit on bonded indebtedness of a school district shall be the greater of the limit determined pursuant to subsection (1.3) of this section or thirty percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners, if the commissioner of education or the commissioner's designee certifies that for each of the preceding three fiscal years, or for three consecutive fiscal years that include the fiscal year in which the certification is made, the pupil enrollment or the funded pupil count of the district as of the pupil enrollment count day, whichever is applicable, increased:

(a) By two and one-half percent or more over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of at least one thousand pupils; or

(b) By twenty-five or more pupils over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of less than one thousand pupils.

(1.5) The debt limit provided in subsection (1.3) of this section shall apply to a district only as long as the conditions of subsection (1.3) of this section are met. In any year in which the conditions of said subsection (1.3) are not met, the debt limit shall be the limit set forth in subsection (1) of this section; except that the validity of bonded indebtedness incurred in any year in which the debt limit in said subsection (1.3) applied shall not be affected by a subsequent reduction in the district's debt limit.

(2) The indebtedness of the former districts or parts of districts, constituting any new district, shall not be considered in fixing the limit of bonded indebtedness; but, if any school district shall assume the bonded indebtedness of any district or districts, or a proportionate share thereof, existing at the time of inclusion in the assuming school district, pursuant to law, such bonded indebtedness shall be included in the limit of bonded indebtedness.

(3) The permission to incur additional bonded indebtedness, granted by the property tax administrator in the division of property taxation of the department of local affairs, and any school district bonds issued pursuant thereto on or after May 10, 1972, are hereby validated. This subsection (3) shall not be construed to grant authority to incur bonded indebtedness in excess of the limit of bonded indebtedness.

(4) The validity of bonded indebtedness incurred in any year shall not be affected by a subsequent reduction in the district's limit of bonded indebtedness caused by a decrease in the valuation for assessment or actual value of taxable property in the district.

**Source:** L. 64: R&RE, p. 548, § 1. C.R.S. 1963: § 123-11-5. L. 70: p. 379, § 6. L. 72: p. 618, § 153. L. 73: p. 1277, § 5. L. 74: Entire section R&RE, p. 359, § 1, effective February 2. L. 83: (1)(a) amended and (3) added, p. 760, § 1, effective May 26; (2) added, p. 750, § 4, effective July 1. L. 88: (2) amended, p. 814, § 18, effective May 24. L. 90: IP(2)(a) amended, p. 1082, § 40, effective May 31. L. 91, 2nd Ex. Sess.: IP(2)(a) amended, p. 30, § 9, effective October 18. L. 92: (2)(a)(I) and (2)(a)(II) amended, p. 552, § 31, effective May 28. L. 94: Entire section amended, p. 805, § 9, effective April 27. L. 95: IP(1) amended and (1.3) and (1.5) added, p. 609, § 8, effective May 22. L. 96: IP(1.3) amended, p. 1796, § 12, effective June 4. L. 98: IP(1.3) and (1.3)(a) amended, p. 963, § 2, effective May 27. L. 2005: IP(1.3) amended, p. 434, § 8, effective April 29. L. 2007: (1.3) amended, p. 311, § 1, effective March 30; IP(1) and IP(1.3) amended and (1.4) added, p. 633, § 1, effective August 3. L. 2011: (1.2) added, (SB 11-230), ch. 305, p. 1467, § 7, effective June 9. L. 2012: IP(1.3) and IP(1.4) amended, (HB 12-1090), ch. 44, p. 153, § 17, effective March 22.

**Editor's note:** Amendments to subsection (1.3) by House Bill 07-1049 and House Bill 07-1239 were harmonized.

## ANNOTATION

**Law reviews.** For article, "Property Tax Assessments in Colorado", see 12 Colo. Law. 563 (1983). For comment, "Colorado Public School Financing: Constitutional Issues", see 59 U. Colo. L. Rev. 149 (1988).

**Annotator's note.** Since § 22-42-104 is similar to repealed § 123-8-32, CRS 53, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

**Constitutionality of debt limit.** The limit on the valuation for assessment of the taxable property for the bond redemption fund, established in subsection (1)(a), is rationally related to a legitimate state purpose, and is therefore declared constitutional. *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982).

**The debt limit is determined at the time of the issuance of the bonds**, whether issued in one or more series; and when the limitation is based on a percentage of the valuation, the limit of the debt is determined by the percentage of the assessed valuation in effect when the actual debt was created, which is the fixed percentage of the assessed valuation of the year next preceding the date of the bonds. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**Issuance of bonds creates an indebtedness.** The authorization of an issue of bonds is not the creation of an indebtedness, which can only arise when the bonds are issued. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**The limit for the indebtedness is fixed by the state**, which cannot be exceeded in any



event. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**Limit is based on valuations nearest the date of issuance.** It undoubtedly was the intent of the general assembly that the debt limit be fixed on valuations nearest the date of the issuance of the bonds. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**Where electors authorize an issue in excess**

**of statutory limit, only the excess is void.** Where a school district may become indebted in a certain amount by bonds, and the electors of the district authorize a debt in excess of that amount, such authorization is void only as to the excess, and valid as to the sum which it was within the power of the district to issue. *Shover v. Buford*, 71 Colo. 562, 208 P. 470 (1922).

#### **22-42-104.5. Pro rata distribution of bond revenues to qualified charter schools. (Repealed)**

**Source: L. 2001:** Entire section added, p. 350, § 13, effective April 16; (1) amended, p. 639, § 2, effective May 30. **L. 2002:** Entire section repealed, p. 1752, § 29, effective June 7.

#### **22-42-105. Voting precincts. (Repealed)**

**Source: L. 64:** R&RE, p. 548, § 1. **C.R.S. 1963:** § 123-11-6. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

#### **22-42-106. Ballots. (Repealed)**

**Source: L. 64:** R&RE, p. 548, § 1. **C.R.S. 1963:** § 123-11-7. **L. 70:** p. 333, § 4. **L. 73:** p. 1244, § 2. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

#### **22-42-107. Concurrent election for directors and bonds. (Repealed)**

**Source: L. 64:** R&RE, p. 549, § 1. **C.R.S. 1963:** § 123-11-8. **L. 70:** p. 333, § 5. **L. 92:** Entire section amended, p. 840, § 36, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1437, § 129, effective July 1.

#### **22-42-108. Pollbooks - certificate of return. (Repealed)**

**Source: L. 64:** R&RE, p. 549, § 1. **C.R.S. 1963:** § 123-11-9. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

#### **22-42-109. Registration. (Repealed)**

**Source: L. 64:** R&RE, p. 550, § 1. **C.R.S. 1963:** § 123-11-10. **L. 70:** p. 333, § 6. **L. 74:** Entire section amended, p. 376, § 6, effective March 21. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

#### **22-42-110. Registration list omissions - challenges - oath - rejection of vote. (Repealed)**

**Source: L. 64:** R&RE, p. 550, § 1. **C.R.S. 1963:** § 123-11-11. **L. 70:** p. 333, § 7. **L. 71:** pp. 1149, 1151, §§ 3, 9. **L. 72:** p. 315, § 44. **L. 74:** (1) amended, p. 376, § 7, effective March 21; (5) amended, p. 418, § 65, effective April 11. **L. 80:** (4) amended, p. 409, § 8, effective January 1, 1981. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-111. Count and canvass. (Repealed)**

**Source:** L. 64: R&RE, p. 551, § 1. C.R.S. 1963: § 123-11-12. L. 70: p. 334, § 8. L. 87: (2) amended, p. 316, § 54, effective July 1. L. 92: Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-112. Absentee voting. (Repealed)**

**Source:** L. 64: R&RE, p. 552, § 1. C.R.S. 1963: § 123-11-13. L. 70: p. 335, § 9. L. 71: p. 1151, § 9. L. 74: Entire section amended, p. 376, § 8, effective March 21. L. 75: Entire section amended, p. 211, § 30, effective July 16. L. 80: Entire section amended, p. 409, § 9, effective January 1, 1981. L. 92: Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-113. Use of voting machines. (Repealed)**

**Source:** L. 64: R&RE, p. 553, § 1. C.R.S. 1963: § 123-11-14. L. 92: Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-114. Board may issue bonds - exemption from Colorado income tax.** When approved at an election held pursuant to section 22-42-102, the board of education, from time to time, as the proceeds thereof shall be needed for the purposes specified in the notice of said bond election, shall issue bonds of the district in denominations of one thousand dollars or any multiple of one thousand dollars, in its discretion, bearing interest at a rate such that the annual and total repayment costs do not exceed the limits set forth in the notice of the bond election and payable at such time determined in the discretion of the board, which bonds shall mature serially, commencing not later than five years and extending not more than twenty-five years after the date thereof. Principal and interest thereon shall be payable at such place as shall be determined by said board and designated in said bonds. Said bonds shall be made callable for redemption, commencing no later than eleven years after their date, in such manner, with or without premium, as may be determined by the board. Interest on bonds issued on or after July 1, 1973, pursuant to this article shall be exempt from Colorado income tax.

**Source:** L. 64: R&RE, p. 553, § 1. C.R.S. 1963: § 123-11-15. L. 70: p. 336, § 10. L. 71: p. 1149, § 4. L. 73: p. 1250, § 1. L. 74: Entire section amended, p. 419, § 66, effective April 11. L. 2010: Entire section amended, (HB 10-1013), ch. 399, p. 1898, § 5, effective June 10.

**ANNOTATION**

**Board not required to determine bond issue date at election time.** The board of education, in arranging for bond election and the time thereof, is not required to determine the date on which the bonds are to be issued. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**The adopted authorization is only for a reasonable, necessary, or prudent time.** The

authorization for the issuance of school district bonds when once adopted by the electors is not to be considered as an authorization for all future time, but only for such time as is reasonable, necessary or prudent. *Hebel v. Sch. Dist. R-1*, 131 Colo. 105, 279 P.2d 673 (1955).

**22-42-115. Form of bonds.** The bonds issued under the provisions of this article shall be numbered consecutively, beginning with number one. The board of education of the district is authorized to prescribe the form of such bonds. Said bonds shall recite that they are issued pursuant to this article, and said bonds shall be signed by the president of the district, bear an impression of the seal of the district, and be attested by signature of the secretary. Coupons, if any, evidencing the interest thereon shall bear the signature of the



president of the district, which may be affixed by him in person, or it may be an engraved or lithographed facsimile thereof. At the discretion of the board of education, any school bonds may be issued with privileges for registration of such bonds for payment as to principal, interest, or both. In the execution of bonds authorized pursuant to this article, the board of education may provide for the use of facsimile signatures and facsimile seals in the manner set forth in article 55 of title 11, C.R.S.

**Source: L. 64: R&RE, p. 553, § 1. C.R.S. 1963: § 123-11-16.**

**22-42-116. Sale at less than par - discount.** If it is found to be in the best interest of the school district, the board of education of the school district may issue such bonds and accept therefor less than their face value.

**Source: L. 64: R&RE, p. 554, § 1. C.R.S. 1963: § 123-11-17. L. 70: p. 336, § 11. L. 2010: Entire section amended, (HB 10-1013), ch. 399, p. 1899, § 6, effective June 10.**

**22-42-117. Board to certify needed revenues.** (1) If the board of education has issued any of said bonds, at the time of certifying to the board of county commissioners a statement showing the amount necessary to raise from the taxable property of said district for the general fund as required by law, it shall also certify to said board of county commissioners the amount needed for its bond redemption fund to pay all installments of principal and interest of said bonds, which, according to their terms, have already become due and payable or shall become due and payable during the next ensuing fiscal year, or both, together with such additional amount, if any, as in the judgment of the board of education it is desirable to raise from the taxable property of said district for the purpose of redeeming, during the said ensuing fiscal year, any of said bonds which are redeemable but not due. Separate amounts shall be certified for the bond redemption fund to satisfy the outstanding obligations of bonded indebtedness which involve separate tax levies on taxable property located within different territorial limits.

(2) The board of education has authority to include in each amount certified for said bond redemption fund an amount to create a reserve for the redemption of bonds in future years prior to their maturities, for the payment of bonds in future years either prior to or at their maturities, or for purchasing at a discount and cancellation any bond on which the interest is being paid for the current district debt service mill levy; but said reserve shall be restricted to the subsidiary account in the bond redemption fund for which said tax levy was made.

**Source: L. 64: R&RE, p. 554, § 1. C.R.S. 1963: § 123-11-18. L. 81: (2) amended, p. 1072, § 1, effective July 1. L. 94: (2) amended, p. 808, § 12, effective April 27. L. 2003: (2) amended, p. 1299, § 7, effective April 22.**

#### ANNOTATION

**Subsection (1) is consistent with art. X, § 20, of the state constitution.** Bolt v. Arapahoe County Sch. Dist. No. 6, 898 P.2d 525 (Colo. 1995).

**22-42-118. Tax levy to pay principal and interest.** (1) If any school district has issued bonds under the provisions of this article, it is the duty of the board of county commissioners of the county in which said district is situated, at the time of levying other school district taxes, to levy a tax on all the taxable property of said district at a rate sufficient to produce such amount as has been certified by the board of education of said district, for the purpose of paying bonds not yet due, as provided in section 22-42-117.

(2) Except when said school district has sufficient moneys or securities in a refunding escrow account to satisfy the bonded indebtedness obligations which will be due and payable during said district's next ensuing calendar year, if the board of education fails to certify such an amount to the board of county commissioners as required by section

22-42-117, the board of county commissioners, nevertheless, shall levy upon the appropriate taxable property of said district a tax in addition to the taxes levied for other purposes, in an amount sufficient to pay all installments of principal and interest of said bonds that shall become due during the next ensuing calendar year, or, if said bonds do not become due and payable in series at different times, in an amount sufficient to pay all installments of interest then to become due and the aforesaid portion of principal.

(3) The amount certified pursuant to section 22-42-117 and the rate of the tax levy required by this section shall be sufficient to cover any deficiency which may occur by reason of delinquent payment of taxes.

(4) The county treasurer shall not collect any fee on the moneys received by virtue of a tax levied pursuant to this section, nor shall he collect any fee on any moneys received from any other source to pay bonds or interest thereon. The county treasurer may collect a fee, as provided in section 30-1-102 (1) (g), C.R.S., for services rendered by virtue of his office having been designated as the place of payment or optional place of payment for bonds issued under this article or under article 43 of this title, but this fee shall be collected only when the county treasurer has a financial institution perform such services regarding the bonds, and such fee shall be in an amount equal to the fee charged the county treasurer by the financial institution.

**Source:** L. 64: R&RE, p. 554, § 1. C.R.S. 1963: § 123-11-19. L. 79: (4) amended, p. 792, § 1, effective July 1. L. 90: (2) amended, p. 1083, § 41, effective May 31.

#### ANNOTATION

**This section is consistent with art. X, § 20, of the state constitution.** Bolt v. Arapahoe County Sch. Dist. No. 6, 898 P.2d 525 (Colo. 1995).

**22-42-119. Bond fund - payment and redemption.** (1) Such taxes shall be collected in the same manner as other school district taxes and when collected shall be placed by the county treasurer in the bond redemption fund of said school district. The moneys in said fund shall be used only for payment of interest upon and for the redemption of such bonds, upon orders signed and countersigned in the manner provided by law for the execution of other school district orders; but the board of education of said school district may withdraw, or the board of education may instruct the third-party custodian administering the bond redemption fund pursuant to section 22-45-103 (1) (b) (V) to withdraw, any or all of such moneys credited to said fund which are temporarily not needed to satisfy the obligations of bonded indebtedness, for the purpose of depositing or investing such moneys in the manner prescribed by law.

(2) Redemption of said bonds prior to the respective maturities thereof may be made in the order as determined by the board in the resolution authorizing the issuance of said bonds and set forth on the face of said bonds. Notice of the redemption of said bonds, prior to maturity, shall be made in the manner prescribed in said bond resolution. In the absence of such prescribed manner in the bond resolution, a redemption prior to maturity shall be made in the following manner: When authorized by the board of education, the treasurer of said school district shall advertise in some newspaper published in the school district once a week for two consecutive weeks that on a certain day, named in said advertisement, not less than four weeks after the time of the first publication thereof, he will redeem certain of said bonds therein described by number, amount, and date of issue thereof and that the principal, interest to redemption date, and redemption premium, if any, of said bonds will be paid in accordance with the bond resolution authorizing such bonds. The notice shall indicate also that, after the day so fixed for redemption, the interest on the bonds shall cease. After the day of redemption so fixed in said notice, the bonds so advertised and called to be redeemed shall cease to draw interest.

(3) If the bonds are made payable at the office of the county treasurer, any redemption of such bonds shall also be made at the office of the county treasurer of the county, who shall make a notation of such payment or redemption upon his books.

(4) If the bonds are made payable at some place other than the office of the county



treasurer, such bonds shall be redeemable at the place where payable, and the treasurer of the district shall, immediately after the payment or redemption, inform the county treasurer that certain bonds, describing them by number, amount, and date of issue, have been paid or redeemed and cancelled, and said county treasurer shall make a record of such payment or redemption upon his books.

(5) In all cases bonds when paid or redeemed shall be cancelled by the district treasurer and preserved by him and his successors for a period of one year after the date of their payment or redemption.

**Source:** L. 64: R&RE, p. 555, § 1. C.R.S. 1963: § 123-11-20. L. 95: (2) amended, p. 608, § 5, effective May 22. L. 2003: (1) amended, p. 1296, § 3, effective April 22.

#### ANNOTATION

**Annotator's note.** Cases relevant to § 22-42-119 decided prior to its earliest source, § 123-11-20, C.R.S. 1963, as amended, have been included in the annotations to this section.

**Bondholders, not receiving notice as required, have a right to demand and receive their interest.** People ex rel. Sch. Dist. No. 6 v. Schaeffer, 100 Colo. 70, 65 P.2d 699 (1937).

**Duties of county treasurer.** A county treasurer can have no concern as to the place, man-

ner, or the fact of payment of school district obligations. By virtue of his office he collects tax levies made by or for the school districts of his county, but his only further duty concerning the money collected is to make disbursement on warrants or orders drawn by school district officers. People ex rel. Bd. of County Comm'rs v. Koenig, 99 Colo. 456, 63 P.2d 1235 (1936).

**22-42-120. Place of payment.** (1) The board of education of a school district is authorized to designate the office of the county treasurer of the county in which the headquarters of such school district is situated as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such school district, or to designate any commercial bank or trust company as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such school district, and the commercial bank or trust company so designated may be located either within or without this state.

(2) It is the duty of the board of education of said school district to cause sufficient moneys from said tax levy or refunding escrow account to be placed from time to time at the place of payment, or optional place of payment, designated on said bonds in an amount to satisfy the principal and interest obligations of said bonds as the same may become due and payable from time to time. It is the duty of the treasurer of said school district to pay, or instruct the third-party custodian administering the school district's bond redemption fund pursuant to section 22-45-103 (1) (b) (V) to pay, the obligations of said bonds as the same may become due and payable, upon presentation of the bonds and coupons respectively evidencing such obligations, from any moneys to the credit of the appropriate account available for that purpose.

**Source:** L. 64: R&RE, p. 556, § 1. C.R.S. 1963: § 123-11-21. L. 2003: (2) amended, p. 1296, § 4, effective April 22.

**22-42-121. Registration of bonds.** Whenever any school district issues bonds under the provisions of this article, the board of education may make and enter in its record a request that the county clerk and recorder of the county wherein the headquarters of such school district is situated register the bonds on a collective, not an individual, basis in a book to be kept by him for that purpose. When so registered, the legality thereof shall not be open to contest by such district, or any person whomsoever, for any reason whatsoever. A certified copy of the order of the board, so made and entered of record, shall be furnished to such county clerk and recorder by the board of education and thereupon it shall be his duty to register said bonds on a collective basis, noting the name of the district and the amount, the date of issuance and maturity, and the rate of interest of said bonds. Such

county clerk and recorder shall not be required to make a separate entry in said book or complete or process a registration form for each such bond of such issue, or otherwise register each such bond of such issue on an individual basis. He shall receive a fee of twenty-five dollars for registering each such issue.

**Source:** L. 64: R&RE, p. 557, § 1. C.R.S. 1963: § 123-11-22. L. 91: Entire section amended, p. 708, § 3, effective July 1.

**22-42-122. Changes in boundaries - liability.** (1) Nothing in this article or in any other provision of law shall be construed so as to release the taxable property within a school district which incurred bonded indebtedness from liability for its proportionate share of the outstanding obligations thereof.

(2) The outstanding bonded indebtedness, or proportionate share thereof, incurred by a school district which is dissolved as a result of the formation of a new school district may be assumed by said new school district in the manner provided by article 30 of this title.

(3) The taxable property located within the territory of a school district which is dissolved and the resultant unorganized territory annexed to an adjacent school district shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

(4) The taxable property located within the territory of a school district which is detached and annexed to an adjacent school district shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

(5) The taxable property located within a capital improvement zone of a school district shall be liable for bonded indebtedness incurred by the school district pursuant to this article.

**Source:** L. 64: R&RE, p. 557, § 1. C.R.S. 1963: § 123-11-23. L. 94: (5) added, p. 1791, § 5, effective January 1, 1995. L. 2008: (5) amended, p. 1900, § 80, effective August 5.

#### ANNOTATION

**Annotator's note.** Cases relevant to § 22-42-122 decided prior to its earliest source, § 123-11-23, C.R.S. 1963, as amended, have been included in the annotations to this section.

**Section held constitutional.** Linke v. Bd. of County Comm'rs, 129 Colo. 165, 268 P.2d 416 (1954).

**Owner of property annexed to district with existing bonded indebtedness has no right to vote on the indebtedness.** While those property owners in a school district, who are also legal voters therein, are entitled to an opportunity to give or withhold their consent to the incurring of the bonded indebtedness at the election held for that purpose, § 7 of art. XI, Colo. Const., does not give the right to vote on the question of issuance of the bonds to owners of property which subsequently becomes a part of the district issuing the bonds. Linke v. Bd. of County Comm'rs, 129 Colo. 165, 268 P.2d 416 (1954).

**Section 7 of art. XI, Colo. Const., is directed against levying taxes on inhabitants without their consent.** Section 7 of art. XI, Colo. Const., is directed against the school districts and political subdivisions as such, to prevent their levying or assessing taxes against their inhabitants without their consent, but does

not prohibit individual taxpayers from assuming such burdens as they voluntarily desire to assume. Linke v. Bd. of County Comm'rs, 129 Colo. 165, 268 P.2d 416 (1954).

**Where the majority of the qualified electors in the districts vote in favor of dissolution and annexation this section is applicable.** Bd. of County Comm'rs v. Carpenter, 134 Colo. 356, 303 P.2d 1104 (1956).

**Annexed property is liable for existing indebtedness of annexing body.** As a general rule, in the absence of statute or constitutional provision to the contrary, territory annexed to a municipal corporation or school district is liable to pay its proportionate share of the existing indebtedness of the corporation to which it is annexed. Linke v. Bd. of County Comm'rs, 129 Colo. 165, 268 P.2d 416 (1954).

The owners of property in the annexed territory should share their proportionate part of the burden legally assumed before their property was annexed, since they reap the benefits thereof. Linke v. Bd. of County Comm'rs, 129 Colo. 165, 268 P.2d 416 (1954); Bd. of County Comm'rs v. Carpenter, 134 Colo. 356, 303 P.2d 1104 (1956).

**Taxes will be levied on the annexed property.** The electors in a newly annexed area must



assume their proportionate share of the existing indebtedness of the annexing district, and county commissioners must include the newly annexed property in the levy of taxes for this purpose. *Bd. of County Comm'rs v. Carpenter*, 134 Colo. 356, 303 P.2d 1104 (1956).

**Regardless of existing indebtedness of the annexed districts.** Annexed property of a school district must bear its proportionate share of existing bonded indebtedness, regardless of any existing indebtedness of the annexed districts, where the annexing district had not received any benefits from any preexisting indebtedness of any of the annexed districts. *Bd. of County Comm'rs v. Carpenter*, 134 Colo. 356, 303 P.2d 1104 (1956).

**For tax purposes, district boundaries are determined on date of levy.** As between the

date when a tax was authorized and the date when it was actually levied, boundaries are to be considered as they exist on the day of the actual levy, rather than the day authority to tax was granted. *Linke v. Bd. of County Comm'rs*, 129 Colo. 165, 268 P.2d 416 (1954).

**Annexed districts are not freed from their own existing bonded indebtedness incurred prior to annexation.** *Callaway v. Denver & R. G. R. R.*, 6 Colo. App. 284, 40 P. 573 (1895); *Bd. of County Comm'rs v. Carpenter*, 134 Colo. 356, 303 P.2d 1104 (1956).

**For previous limitation of liability to property within school district at time of issue of bonds,** *Callaway v. Denver & R. G. R. R.*, 6 Colo. App. 284, 40 P. 573 (1895).

### **22-42-123. Validation. (Repealed)**

**Source:** L. 64: p. 566, § 6. C.R.S. 1963: § 123-11-24. L. 2006: Entire section repealed, p. 609, § 30, effective August 7.

### **22-42-124. Prior obligations not impaired. (Repealed)**

**Source:** L. 64: p. 567, § 7. C.R.S. 1963: § 123-11-25. L. 2006: Entire section repealed, p. 609, § 31, effective August 7.

**22-42-125. Public disclosure of terms of sale.** (1) Whenever school bonds are sold, the board of the district selling the same shall cause to be prepared and filed with the department of education, within ten days after said sale, a report setting forth a description of the bond issue, the applicable interest rate, including the net effective interest rate, other terms of the sale, and applicable statistical, comparative bond market data, ratings, and indices relative to prevailing market conditions prior to and at the time of said sale, and explaining the reasons why it was necessary, if it was, that the bonds be sold at a negotiated sale instead of by public competitive bidding. The department of education may request additional information from the school district or from the purchaser of the bonds regarding terms of the sale.

(2) One or more copies of said report shall be retained on file at the administrative headquarters of the district, and a copy thereof shall be made available upon written request to any officer or representative of any organization of Colorado school districts.

**Source:** L. 70: p. 336, § 12. C.R.S. 1963: § 123-11-26.

**22-42-126. Validation.** All school elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any school district, under law or under color of law, preliminary to and in the holding and canvass of all school elections are validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise, and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

**Source:** L. 71: p. 1151, § 10. C.R.S. 1963: § 123-11-27.

**22-42-127. Validation - effect - limitations.** (1) All bonds issued and other contracts, leases, or agreements executed by school districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of

such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 22-42-104 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

**Source: L. 73:** p. 1277, § 6. **C.R.S. 1963:** § 123-11-28.

**22-42-128. Effect of article X, section 20 on bonded indebtedness authorized prior to November 4, 1992.** (1) The general assembly hereby finds and declares that:

(a) Section 20 (4) of article X of the state constitution provides that, beginning on November 4, 1992, school districts must have voter approval in advance for increases in bonded indebtedness and property tax mill levies;

(b) A sizeable amount of bonded indebtedness had been authorized by school district electors at elections held pursuant to section 22-42-102 prior to the adoption of section 20 of article X;

(c) In approving the question of incurring bonded indebtedness, the voters acknowledged that the board of education of the school district would annually certify the amount needed for its bond redemption fund to make principal and interest payments on the bonds, that a property tax would be levied annually to produce such certified amount, and that the property tax mill levy would be raised or lowered annually to produce such certified amount;

(d) Once bonded indebtedness was incurred, the voters of the district, as well as the bondholders, had a reasonable expectation that further voter approval would not be required;

(e) The purpose of section 20 (4) of article X is to allow the electors of school districts to have a voice in bonded indebtedness increases and property tax mill levy increases;

(f) The purpose of section 20 (4) has already been fully satisfied because the question of incurring bonded indebtedness, and the method for paying such indebtedness through an adjustment to the property tax mill levy, has already been approved by the voters at elections held prior to November 4, 1992; and

(g) The purpose of section 20 (4) would not be further satisfied by requiring voter approval each time the mill levy needs to be adjusted to produce the revenue necessary to pay school district bonded indebtedness authorized at elections held prior to November 4, 1992.

(2) Bonded indebtedness authorized at elections held pursuant to section 22-42-102 prior to November 4, 1992, or the refunding of such bonded indebtedness, which involve a property tax mill levy or a pledge of a property tax mill levy pursuant to section 22-42-118 to provide revenues to the school district to make bonded indebtedness payments or to cover default or deficiencies in bonded indebtedness payments, is not affected or impaired by the passage of section 20 of article X of the state constitution.

**Source: L. 94:** Entire section added, p. 456, § 1, effective March 21.



ANNOTATION

**This section is consistent with art. X, § 20, of the state constitution.** Bolt v. Arapahoe County Sch. Dist. No. 6, 898 P.2d 525 (Colo. 1995).

**22-42-129. Limitation on actions.** No action shall be brought questioning the legality of any bonds or loans authorized by this title or any resolution, proceeding, or contract in connection with such bonds or loans on and after thirty days from the effective date of the resolution authorizing the issuance of such bonds or the execution of any loan agreement.

**Source: L. 2000:** Entire section added, p. 520, § 3, effective August 2.

ARTICLE 43  
Refunding Bonds

**Editor’s note:** This article was numbered as article 12 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

22-43-101.	Definitions.	22-43-106.	Needed revenues - tax levy - miscellaneous.
22-43-102.	Refunding bonds may be issued.	22-43-107.	Application of bond proceeds - procedures - limitations.
22-43-103.	Question of issuing refunding bonds.	22-43-108.	Reports.
22-43-104.	Authorization - form - interest.	22-43-109.	Validation. (Repealed)
22-43-105.	Sale - proceeds - amounts.	22-43-110.	Prior obligations not impaired. (Repealed)

**22-43-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Board of education” or “board” means the governing body authorized by law to administer the affairs of any school district.

(1.5) Repealed.

(2) “Net effective interest rate” of a proposed issue of refunding bonds means the net interest cost of said refunding issue divided by the sum of the products derived by multiplying the principal amounts of such refunding issue maturing on each maturity date by the number of years from the date of said proposed refunding bonds to their respective maturities. “Net effective interest rate” of an outstanding issue of bonds to be refunded means the net interest cost of said issue to be refunded divided by the sum of the products derived by multiplying the principal amounts of such issue to be refunded maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(3) “Net interest cost” of a proposed issue of refunding bonds means the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, less the amount of any premium above par at which said refunding bonds are being or have been sold. “Net interest cost” of an outstanding issue of bonds to be refunded means the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) “School district” or “district” means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source:** L. 64: R&RE, p. 558, § 3. C.R.S. 1963: § 123-12-1. L. 75: (1.5) added, p. 704, § 1, effective March 3; (4) amended, p. 787, § 9, effective July 1. L. 89: (1.5) repealed, p. 1135, § 85, effective July 1. L. 96: (4) amended, p. 66, § 24, effective July 1.

**22-43-102. Refunding bonds may be issued.** (1) Any school district in this state may issue negotiable coupon bonds to be denominated refunding bonds for the purpose of refunding any of the bonded indebtedness of such district, whether said indebtedness is due or not due, or has or may hereafter become payable or redeemable at the option of such district, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness be now existing or may hereafter be created.

(2) The bonded indebtedness of any district outstanding at the time of the inclusion of all such district's territory in another district, by reorganization, consolidation, dissolution, or any other lawful means, may be refunded by action of the board of the district including such territory at the time of such refunding, whether or not such indebtedness has been assumed by the district including such territory.

(3) When an entire district having outstanding bonded indebtedness has been divided and parts thereof included within two or more other districts by any lawful means, the refunding of such indebtedness shall require affirmative action by a majority of the members of the boards of each of the districts within which any part of the territory of such district owing said indebtedness is then included, except as is provided in this article to the contrary.

(4) The bonded indebtedness of any school district outstanding at the time any territory of said district is detached therefrom by any lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such territory from said district, may be refunded by action of the board of such district from which territory has been detached with or without concurrence or action by the board of the district within which said detached territory is included, and such districts from which territory has been detached and which retain their corporate existence subsequent to detachment are specifically exempted from the requirements and provisions of subsection (3) of this section.

(5) Any such refunding bonds may be issued to refund any issues of outstanding bonds; but no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property upon which tax levies are being made for payment of each such outstanding issue of bonds is identical to the taxable property on which such levies are being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds.

(6) Repealed.

**Source:** L. 64: R&RE, p. 559, § 3. C.R.S. 1963: § 123-12-2. L. 83: (6) added, p. 760, § 2, effective May 26.

**Editor's note:** Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 1986. (See L. 83, p. 760.)

**22-43-103. Question of issuing refunding bonds.** (1) Whenever the board of education of any school district deems it expedient to issue refunding bonds under the provisions of this article and the net effective interest rate and the net interest cost of said issue of refunding bonds shall not exceed the net effective interest rate and the net interest cost of the outstanding bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing the same at an election held in accordance with article 42 of this title. If two or more issues of outstanding bonds of a school district are to be refunded by the issuance of a single issue of refunding bonds, as provided in section 22-43-102 (5), the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single



refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds at an election held in accordance with article 42 of this title.

(2) If any district proposes to issue refunding bonds, on which issue the net interest cost or net effective interest rate exceeds the net interest cost or net effective interest rate of the outstanding bonds to be refunded, the board shall submit the question of issuing such refunding bonds and the maximum net interest cost and maximum net effective interest rate at which such refunding bonds may be issued at the regular biennial school election or at a special election called for that purpose. Any such election shall be called and held as nearly as may be in the manner provided by law for elections on the question of the issuance of other school bonds of the issuing district.

**Source:** L. 64: R&RE, p. 560, § 3. C.R.S. 1963: § 123-12-3. L. 70: p. 337, § 13.

**22-43-104. Authorization - form - interest.** (1) Such refunding bonds shall be authorized by a resolution fixing the date, the denominations, the rate of interest on individual bonds, the maturity dates which shall not be more than twenty-five years after the date of such refunding bonds, and the place of payment within or without the state of Colorado, of both principal and interest, and prescribing the form of such refunding bonds. Such bonds shall be negotiable in form and executed in the same manner as prescribed for other school district bonds. At the discretion of the board, any such bonds may be issued with privileges for registration for payment as to principal or interest, or both.

(2) The interest accruing on such refunding bonds may be evidenced by interest coupons thereto attached in substantially the same form as prescribed for other school district bonds, and, when so executed, such coupons shall be the binding obligations of the district according to their import. Such refunding bonds shall mature serially, commencing not later than five years after the date of such bonds and maturing during a period not exceeding twenty-five years after the date thereof. The amount of such maturities shall be fixed by the board of education and specified in the resolution authorizing the issuance of the refunding bonds. The right to redeem all or part of said bonds prior to their maturity, and the order of any such redemption, may be reserved in the resolution authorizing the issuance of bonds and shall be set forth on the face of said bonds. Interest on refunding bonds issued on or after July 1, 1973, pursuant to this article shall be exempt from Colorado income tax.

**Source:** L. 64: R&RE, p. 561, § 3. C.R.S. 1963: § 123-12-4. L. 70: p. 338, § 14. L. 73: p. 1250, § 2.

**22-43-105. Sale - proceeds - amounts.** Such refunding bonds may be exchanged for the bonds to be refunded, or they may be sold at, above, or below their par value; but such refunding bonds shall be exchanged or sold at a price such that the net interest cost and the net effective interest rate for the issue of refunding bonds does not exceed the net interest cost and the net effective interest rate of the outstanding bonds to be refunded or the maximum net effective interest rate and net interest cost approved by the voters, as the case may be. Such refunding bonds shall be in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the board of education, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same or less than the principal amount of the bonds to be refunded, if due, adequate, and sufficient provision has been made for the payment or redemption and retirement of said bonds to be refunded and the payment of the interest accruing thereon in accordance with this article.

**Source:** L. 64: R&RE, p. 561, § 3. C.R.S. 1963: § 123-12-5. L. 70: p. 338, § 15.

**22-43-106. Needed revenues - tax levy - miscellaneous.** (1) Whenever a board of education issues refunding bonds under the provisions of this article, sections 22-42-117 to 22-42-121 shall be applicable to said refunding bonds and the procedures therefor, in the same manner as prescribed for other school district bonds; except that any such refunding

bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds if no refunding thereof had occurred.

(2) After refunding bonds are issued pursuant to this article, the resolution authorizing the same and providing for the levy of taxes for the payment of interest upon and the principal of such refunding bonds shall not be altered or repealed until the refunding bonds so authorized have been fully paid.

**Source: L. 64: R&RE, p. 562, § 3. C.R.S. 1963: § 123-12-6.**

**22-43-107. Application of bond proceeds - procedures - limitations.** (1) The proceeds derived from the issuance of any refunding bonds under the provisions of this article shall either be immediately applied to the payment or redemption and retirement of the bonds to be refunded and the cost and expense incident to such procedures or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the costs and expenses incident to such proceedings and for no other purpose whatsoever until the bonds being refunded have been paid in full and discharged, and all accrued interest thereon has also been paid in full, upon which occurrences the escrow shall terminate, and any moneys remaining therein shall be returned to the district's bond redemption fund.

(2) Any such escrowed proceeds, pending such use, may be invested or, if necessary, reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such times as to insure the prompt payment of the bonds refunded under the provisions of this article and the interest accruing thereon.

(3) Such escrowed proceeds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times is sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom. The computations made in determining such sufficiency shall be verified by a certified public accountant.

(4) For the purpose of implementing the provisions of this article, the board of education of any school district has the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within the state of Colorado and a member of the federal deposit insurance corporation, under protective covenants and agreements whereby such accounts shall be fully secured by, or shall be invested in, securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., in such amounts as will be sufficient and maturing at such times so as to insure the prompt payment of the bonds refunded and the interest accruing thereon under the provisions of this article.

(5) In no event shall the aggregate amount of bonded indebtedness of any school district exceed the maximum allowable amount as determined pursuant to section 22-30-126 or 22-42-104; except that, in determining and computing such aggregate amount of bonded indebtedness of any district, bonds which have been refunded, as provided in this article, either by immediate payment or redemption and retirement or by the placement of the proceeds of refunding bonds in escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying or redeeming and retiring such bonds or from and after the date on which the proceeds of said refunding bonds are placed in escrow.

(6) The issuance of refunding bonds by any school district for the purposes of and in the manner authorized by this article, or by the provisions of any other law, shall never be interpreted or taken to be the creation of an indebtedness such that the same would require the approval at an election held in accordance with article 42 of this title, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by the law under which said refunding bonds are sought to be issued or have been issued.



(7) No bonds may be refunded under the provisions of this article unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment, or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years after the date of issuance of the refunding bonds, and provisions shall be made for paying or redeeming and discharging all of the bonds refunded within said period of time.

(8) No bonds shall be refunded under the provisions of this article within a period of one year following the actual issuance and delivery thereof to their initial purchasers unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the bonds being refunded.

(9) No bonds shall be issued under the provisions of this article for the purpose of refunding any refunding bonds unless the original bonds refunded by said refunding bonds have previously been paid or redeemed and matured or unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the original refunding bonds being refunded.

**Source:** L. 64: R&RE, p. 562, § 3. C.R.S. 1963: § 123-12-7. L. 70: p. 338, § 16. L. 75: (2) and (4) amended, p. 704, § 2, effective March 31. L. 77: (9) amended, p. 593, § 2, effective July 1. L. 89: (2) and (4) amended, p. 1107, § 11, effective July 1. L. 92: (5) amended, p. 516, § 6, effective June 1.

**22-43-108. Reports.** Each school district which issues refunding bonds under the provisions of this article shall file a report within sixty days after the issuance of said bonds with the state board of education. The report shall indicate the principal amount of bonds refunded, the net effective interest rate of both the bonds refunded and the refunding bonds, the net interest cost of both the bonds refunded and the refunding bonds, all school district costs incident to the issuance of refunding bonds, including those of the escrow agent, and such other items as may be determined by the state board of education.

**Source:** L. 64: R&RE, p. 564, § 3. C.R.S. 1963: § 123-12-8.

**22-43-109. Validation. (Repealed)**

**Source:** L. 64: p. 566, § 6. C.R.S. 1963: § 123-12-9. L. 2006: Entire section repealed, p. 609, § 32, effective August 7.

**22-43-110. Prior obligations not impaired. (Repealed)**

**Source:** L. 64: p. 567, § 7. C.R.S. 1963: § 123-12-10. L. 2006: Entire section repealed, p. 610, § 33, effective August 7.

## ARTICLE 43.5

### School District Capital Improvement Zones

**22-43.5-101 to 22-43.5-126. (Repealed)**

**Source:** L. 2000: Entire article repealed, p. 373, § 28, effective April 10.

**Editor's note:** This article was added in 1994. For amendments to this article prior to its repeal in 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 43.7

Capital Construction Assistance

**Editor’s note:** (1) This article was added in 1998. This article was repealed and reenacted in 2008, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2008, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) House Bill 08-1335 repealed and reenacted this article and was further amended by House Bill 08-1388 by the addition of a new part 2.

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PART 1

SCHOOL DISTRICT CAPITAL CONSTRUCTION  
ASSISTANCE PROGRAM

**22-43.7-101. Short title.** This article shall be known and may be cited as the “Building Excellent Schools Today Act”.

**Source: L. 2008:** Entire article R&RE, p. 1040, § 1, effective May 22.

**22-43.7-102. Legislative findings and declarations.** (1) The general assembly hereby finds and declares that:

(a) Colorado school districts, boards of cooperative services, and charter schools have differing financial abilities to meet students’ fundamental educational needs, including the need for new public schools and renovations or for controlled maintenance at existing public schools so that unsafe, deteriorating, or overcrowded facilities do not impair students’ abilities to learn.



(b) The establishment of a program to provide financial assistance to school districts, boards of cooperative services, and charter schools throughout the state that have difficulty financing new capital construction projects and renovating and maintaining existing facilities will help such districts, boards of cooperative services, and charter schools to meet students' fundamental educational needs.

(2) The general assembly further finds and declares that:

(a) Rental income, royalties, interest, and other income other than land sale proceeds derived from state school lands may be used to support the public schools of the state.

(b) It is necessary and appropriate for the state to build excellent schools today by assisting school districts, boards of cooperative services, and charter schools in completing needed public school facility capital construction projects more quickly by:

(I) Entering into lease-purchase agreements for the purpose of financing such projects; and

(II) Subject to the annual appropriation of such moneys by the general assembly, using a portion of the rental income and royalties derived from state school lands and, unless and until the state treasurer, pursuant to section 22-43.7-104 (2) (b) (I) (B), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and at any time after the state treasurer, pursuant to section 22-43.7-104 (2) (b) (I) (C), has rescinded any such determination, interest, and other income, other than land sale proceeds, derived from state school lands, as well as certain other available state moneys and matching moneys provided by school districts, boards of cooperative services, and charter schools, to make lease payments payable under the terms of the lease-purchase agreements.

(c) It is also necessary and appropriate for the state to use a portion of such rental income and royalties and, unless and until the state treasurer, pursuant to section 22-43.7-104 (2) (b) (I) (B), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and at any time after the state treasurer, pursuant to section 22-43.7-104 (2) (b) (I) (C), has rescinded any such determination, interest and other income, as well as certain other available state moneys to continue to provide financial assistance to school districts, boards of cooperative services, and charter schools in the form of cash funding for school renovation and controlled maintenance projects.

(d) In accordance with the decision of the Colorado court of appeals in the case denominated Colorado Criminal Justice Reform Coalition v. Ortiz, Case No. 04 CA 0879 (April 7, 2005), the lease-purchase agreements to be entered into by the state pursuant to this article do not constitute a multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever for purposes of section 20 (4) (a) of article X of the state constitution.

(e) The provision of financial assistance for public school facility capital construction pursuant to this article meets the requirements of section 3 of article IX of the state constitution and shall be applied first to satisfy the legal obligations of the state under the settlement reached in the case denominated Giardino v. Colorado State Board of Education, et al., Case No. 98 CV 246, in the district court for the city and county of Denver.

**Source:** L. 2008: Entire article R&RE, p. 1040, § 1, effective May 22. L. 2009: (2)(b)(II) and (2)(c) amended, (SB 09-257), ch. 424, p. 2363, § 1, effective June 4.

**22-43.7-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Applicant" means any entity that may directly or indirectly submit an application for financial assistance to the board if the entity submits such an application, including:

(a) A school district;

(b) A board of cooperative services;  
(c) A charter school; and  
(d) The Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1) (a).

(2) "Assistance fund" means the public school capital construction assistance fund created in section 22-43.7-104 (1).

(3) "Authorizer" means the school district that authorized the charter contract of a charter school or, in the case of an institute charter school, as defined in section 22-30.5-502 (6), the state charter school institute created and existing pursuant to section 22-30.5-503 (1) (a).

(4) "Board" means the public school capital construction assistance board created in section 22-43.7-106 (1).

(5) "Board of cooperative services" means a board of cooperative services created and existing pursuant to section 22-5-104 that is eligible to receive state moneys pursuant to section 22-5-114.

(6) "Capital construction" shall have the same meaning as set forth in section 24-75-301 (1), C.R.S.

(7) "Charter school" means a charter school as described in section 22-54-124 (1) (f.6) (I) (A) or (1) (f.6) (I) (B) that has been chartered for at least five years on the date its authorizer forwards an application for financial assistance to the board on the charter school's behalf.

(8) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(9) "Division" means the division of public school capital construction assistance created in section 22-43.7-105.

(10) "Financial assistance" means matching grants made by the board from the assistance fund to applicants or any other expenditures made from the assistance fund for the purpose of financing public school facility capital construction as authorized by this article.

(11) "Matching moneys" means moneys required to be paid to the state or used directly to pay a portion of the costs of a public school facility capital construction project by an applicant as a condition of an award of financial assistance to the applicant pursuant to section 22-43.7-109 (9).

(12) "Public school facility" means a building or portion of a building used for educational purposes by a school district, a board of cooperative services, the Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1) (a), or a charter school, including but not limited to school sites, classrooms, libraries and media centers, cafeterias and kitchens, auditoriums, multipurpose rooms, and other multi-use spaces; except that "public school facility" does not include a learning center, as defined in section 22-30.7-102 (4), that is not used for any other public school purpose and is not part of a building otherwise owned, or leased in its entirety, by a school district, a board of cooperative services, a charter school, or the Colorado school for the deaf and blind for educational purposes.

(13) "Public school lands income" means all income received by the state from:

(a) The sale of timber on public school lands, rental payments for the use and occupation of public school lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on public school lands;

(b) Royalties and other payments for the extraction of any natural resource on public school lands; and

(c) Interest or income earned on the deposit and investment of moneys in the public school fund.

(14) "School district" means a school district, other than a junior or community college district, organized and existing pursuant to law.

(15) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.



**22-43.7-104. Public school capital construction assistance fund - creation - crediting of moneys to fund - use of fund - emergency reserve - creation.** (1) The public school capital construction assistance fund is hereby created in the state treasury. The principal of the assistance fund shall consist of all moneys transferred or credited to the assistance fund pursuant to subsection (2) of this section. All interest and income earned on the deposit and investment of moneys in the assistance fund shall be credited to the assistance fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year.

(2) (a) On July 1, 2008, the following moneys shall be transferred to the assistance fund:

(I) All moneys remaining in the school construction and renovation fund, as said fund existed prior to July 1, 2008;

(II) All moneys remaining in the school capital construction expenditures reserve and the school capital construction expenditures reserve fund as said reserve and reserve fund existed prior to July 1, 2008; and

(III) All moneys remaining in the lottery proceeds contingency reserve fund as said fund existed prior to July 1, 2008.

(b) For each fiscal year commencing on or after July 1, 2008, the following moneys shall be credited to the assistance fund:

(I) (A) Unless and until the state treasurer, pursuant to sub-subparagraph (B) of this subparagraph (I), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation, the greater of thirty-five percent of the gross amount of public school lands income received during the fiscal year or an amount of such income equal to the difference between the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) and the total amount of matching moneys to be paid to the state as lease payments under the terms of sublease-purchase agreements entered into pursuant to section 22-43.7-110 (2). The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (A) may be taken from any single source or combination of sources of public school lands income.

(B) Except as otherwise provided in sub-subparagraph (C) of this subparagraph (I), if the state treasurer determines during any fiscal year that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and provides written notice to the joint budget committee of the general assembly of the determination, for the portion of the fiscal year beginning on the date the written notice is provided to the joint budget committee and for each subsequent fiscal year, the greater of fifty percent of the gross amount of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund received during the fiscal year or an amount of such public school lands income equal to the difference between the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) and the total amount of matching moneys to be paid to the state as lease payments under the terms of sublease-purchase agreements entered into pursuant to section 22-43.7-110 (2). The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (B) may be taken from any single source or combination of sources of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund.

(C) If, after making a determination and providing notice pursuant to sub-subparagraph (B) of this subparagraph (I), the state treasurer makes a new determination during any fiscal year that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will not prevent the interest component of the lease

payments from qualifying for exemption from federal income taxation and the state treasurer provides written notice to the joint budget committee of the general assembly that the state treasurer has made a new determination and is rescinding the determination made pursuant to said sub-subparagraph (B) as of the date the written notice is provided, for the portion of the fiscal year beginning on the date the written notice is provided to the joint budget committee and for each subsequent fiscal year, the greater of thirty-five percent of the gross amount of public school lands income received during the fiscal year or an amount of such income equal to the difference between the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) and the total amount of matching moneys to be paid to the state as lease payments under the terms of sublease-purchase agreements entered into pursuant to section 22-43.7-110 (2). The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (C) may be taken from any single source or combination of sources of public school lands income.

(II) The net proceeds made available to the state from the sale of instruments evidencing rights to receive lease payments made and to be made under the terms of any lease-purchase agreement entered into pursuant to section 22-43.7-110 (2), unless otherwise required by the documents pursuant to which the instruments are issued;

(III) All moneys that would otherwise be transferred to the general fund pursuant to section 3 (1) (b) (III) of article XXVII of the state constitution. The moneys credited to the assistance fund pursuant to this subparagraph (III) and any income and interest derived from the deposit and investment of such moneys shall be exempt from any restriction on spending, revenue, or appropriations, including, without limitation, the restrictions of section 20 of article X of the state constitution.

(IV) Matching moneys paid to the state for use by the state in making scheduled payments payable by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2);

(V) Any moneys transferred or appropriated to the assistance fund pursuant to subsection (5) of this section.

(3) Subject to annual appropriation, the department may expend moneys in the assistance fund to pay the direct and indirect administrative costs, including but not limited to the costs of conducting or contracting for the financial assistance priority assessment required by section 22-43.7-108 (1), incurred by the division and the board in exercising their powers and duties pursuant to this article. Any moneys in the assistance fund not appropriated for a fiscal year to the department for administrative costs before the fiscal year commences are hereby continuously appropriated to the board for the purpose of providing financial assistance, making payments required by section 22-43.7-114, and paying any transaction costs necessarily incurred in connection with the provision of financial assistance as authorized by this article; except that the use of any assistance fund moneys to make lease payments required by lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) shall be subject to annual appropriation by the general assembly.

(4) For each fiscal year commencing on or after July 1, 2008, an emergency reserve of at least one million dollars shall be maintained in the assistance fund except that an emergency reserve need not be maintained in any fiscal year in which the amount of either public school lands income or public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund, or both, credited to the assistance fund pursuant to subparagraph (I) of paragraph (b) of subsection (2) of this section is an amount equal to the difference between the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) and the total amount of matching moneys to be paid to the state as lease payments under the terms of sublease-purchase agreements entered into pursuant to section 22-43.7-110 (2) rather than, to the extent applicable, thirty-five percent of the gross amount of public school lands income received by the state during the fiscal year or fifty percent of the gross amount of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund received by the state during the fiscal year. The board may expend moneys from the emergency reserve only



to provide emergency financial assistance to address a public school facility emergency in accordance with section 22-43.7-109 (8).

(5) If the state treasurer, pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (b) of subsection (2) of this section, provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation, any such interest or income credited to the assistance fund before the treasurer provides the written notice shall be segregated into a separate restricted account of the assistance fund. All interest and income earned on the deposit and investment of moneys in the restricted account shall be credited to the restricted account. Moneys in the restricted account shall not be commingled with other moneys in the assistance fund. Notwithstanding any other provision of law, moneys in the restricted account shall not be used and shall not be available to pay lease payments under any lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) unless and until the state treasurer, pursuant to sub-subparagraph (C) of subparagraph (I) of paragraph (b) of subsection (2) of this section, provides written notice to the joint budget committee of the general assembly that the state treasurer is rescinding the determination made pursuant to sub-subparagraph (B) of said subparagraph (I) as of the date the written notice is provided. Moneys in the restricted account may be used for the other purposes for which moneys in the assistance fund may be used under this article.

(6) If the amount of moneys in the assistance fund that, subject to the limitations set forth in subsection (5) of this section, is available to pay lease payments under any lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) will be insufficient to cover the full amount of the lease payments required by the lease-purchase agreements, the general assembly may appropriate or transfer from any legally available source to the assistance fund sufficient moneys to make the lease payments.

**Source:** L. 2008: Entire article R&RE, p. 1043, § 1, effective May 22. L. 2009: (2)(b)(I), (2)(b)(II), and (4) amended and (2)(b)(V), (5), and (6) added, (SB 09-257), ch. 424, pp. 2364, 2366, §§ 2, 3, effective June 4.

**22-43.7-105. Division of public school capital construction assistance - creation - director - function - powers and duties.** (1) (a) There is hereby created within the department a division of state government to be known and designated as the division of public school capital construction assistance, the head of which shall be the director of the division of public school capital construction assistance. Pursuant to section 13 of article XII of the state constitution, the commissioner of education shall appoint the director, and the commissioner shall give good faith consideration to the recommendations of the state board and the board prior to appointing the director. The commissioner shall also appoint such other personnel as may be necessary to fulfill the functions and exercise the powers and duties of the division.

(b) The division and the director of the division shall exercise their powers and perform their duties and functions under the department as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The function of the division is to provide professional and technical support to the board as the board exercises its powers and duties as specified in this article so that financial assistance can be provided for public schools in an equitable, efficient, and effective manner. In furtherance of its function, the division, subject to board direction, has the following powers and duties:

(a) To support the board in establishing public school facility construction guidelines pursuant to section 22-43.7-107;

(b) To support the board in conducting or causing to be conducted the financial assistance priority assessment of public schools throughout the state required by section 22-43.7-108, and, as part of such support, to inspect and assess public school facilities or

evaluate the results of any such inspection and assessment conducted by any contractor retained by the board;

(c) At the request of the board, to undertake a preliminary review of financial assistance applications submitted by applicants and assist the board in the development of the prioritized list of public school facility capital construction projects recommended for financial assistance that the board is required to prepare pursuant to section 22-43.7-106 (2) (c);

(d) To assist applicants and potential applicants in identifying critical capital construction needs using the public school facility construction guidelines as specified in section 22-43.7-107; and

(e) To exercise such other powers and duties as may be necessary to adequately fulfill its function.

**Source: L. 2008:** Entire article R&RE, p. 1045, § 1, effective May 22.

**22-43.7-106. Public school capital construction assistance board - creation - general powers and duties - rules.** (1) (a) There is hereby created within the department the public school capital construction assistance board, which shall exercise its powers and perform its duties and functions under the department as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S. The board shall consist of nine appointed members, none of whom shall hold any state elective office. Five voting members of the board shall constitute a quorum. Board members shall be appointed as follows:

(I) The state board shall appoint three members from different areas of the state and from urban, suburban, and rural school districts. The members appointed by the state board shall all have demonstrated experience regarding public school facility issues and shall include:

(A) One member who is a school district board member at the time of appointment;

(B) One member who is a public school superintendent or administrator at the time of appointment or has recent experience as a public school superintendent or administrator; and

(C) One member who is a school facilities planner or manager at the time of appointment or has recent experience as a school facilities planner or manager.

(II) The governor shall appoint three members. The members appointed by the governor shall include:

(A) One member who is an architect whose professional practice includes the design and rehabilitation of public school facilities at the time of appointment or who has recent experience rehabilitating existing public school facilities and designing new public school facilities;

(B) One member who is an engineer whose professional practice at the time of appointment includes public school facilities engineering or who has recent experience in public school facilities engineering; and

(C) One member who is a construction manager who at the time of appointment manages public school facilities construction projects or who has recent experience managing such projects.

(III) The general assembly shall appoint three members, one of whom shall be appointed by the speaker of the house of representatives, one of whom shall be appointed by the president of the senate, and one of whom shall be appointed jointly by the minority leaders of the house of representatives and the senate. The members appointed by the general assembly shall include:

(A) One member who is a school facilities planner or manager at the time of appointment or has recent experience as a school facilities planner or manager;

(B) One member who has expertise in technology, including but not limited to technology for individual student learning and classroom instruction; and

(C) One member who has public school finance expertise and knowledge regarding public school trust lands.



(b) Members of the board shall serve for terms of two years and may serve up to three consecutive terms; except that the initial terms of one of the members appointed by the state board, one of the members appointed by the governor, and the members appointed by the president of the senate and the minority leaders of the house of representatives and the senate shall be one year. The appointing authority for a member may remove the member for any cause that renders the member incapable of discharging or unfit to discharge the member's duties. The appropriate appointing authority shall fill any vacancy in the membership of the board by appointment, and a member appointed to fill a vacancy shall serve until the expiration of the term for which the vacancy was filled. Members of the board shall serve without compensation but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties. The board shall elect a chair at its initial meeting.

(2) The function of the board is to protect the health and safety of students, teachers, and other persons using public school facilities and maximize student achievement by ensuring that the condition and capacity of public school facilities are sufficient to provide a safe and uncrowded environment that is conducive to students' learning. In performing its function, the board shall ensure the most equitable, efficient, and effective use of state revenues dedicated to provide financial assistance for capital construction projects pursuant to the provisions of this article by assessing public school capital construction needs throughout the state and providing expert recommendations based on objective criteria to the state board regarding the appropriate prioritization and allocation of such financial assistance. To further the performance of its function, the board, in addition to any other powers and duties specified in this article, has the following powers and duties:

(a) To establish public school facility construction guidelines as specified in section 22-43.7-107 to use in reviewing financial assistance applications and recommending to the state board a prioritized list of projects recommended to receive financial assistance as specified in paragraph (c) of this subsection (2);

(b) As soon as possible following the establishment of school facility construction guidelines pursuant to paragraph (a) of this subsection (2), to conduct or contract for a financial assistance priority assessment of public school buildings and facilities in this state based on the criteria set forth in section 22-43.7-107 (2);

(c) To review financial assistance applications and prepare and submit to the state board a prioritized list of projects to receive financial assistance and the amount and type of financial assistance that should be provided for each project;

(d) To establish guidelines for the division to follow when assisting potential applicants in identifying critical capital construction needs and preparing financial assistance applications pursuant to section 22-43.7-105 (2) (d);

(e) With the support of the division, to assist applicants that cannot feasibly maintain their own construction management staff in implementing the projects for which financial assistance is provided, including but not limited to providing assistance with the preparation of requests for bids or proposals, contract negotiations, contract implementation, and project and construction management;

(f) With the support of the division, to assist applicants in implementing energy-efficient public school facility design and construction practices;

(g) To authorize the state treasurer to enter into lease-purchase agreements on behalf of the state as authorized by this article in order to finance public school facility capital construction;

(h) To enter into sublease-purchase agreements on behalf of the state to sublease public school facilities financed by the lease-purchase agreements to applicants; and

(i) (I) To promulgate such rules, in accordance with article 4 of title 24, C.R.S., as are necessary and proper for the administration of this article, including but not limited to:

(A) Conflict of interest rules for board members;

(B) Rules establishing evaluation criteria for matching moneys requirement waiver or reduction applications submitted to the board pursuant to section 22-43.7-109 (10); and

(C) Rules establishing the means by which public school facilities and projects financed in whole or in part with financial assistance provided pursuant this article are to be publicly identified as having been so financed.

(II) The board shall provide a copy of any proposed board rule to the state board on or before the date on which the board issues a notice of proposed rule-making for the rule pursuant to section 24-4-103 (3), C.R.S.

**Source:** L. 2008: Entire article R&RE, p. 1046, § 1, effective May 22. L. 2009: IP(1)(a) amended, (SB 09-257), ch. 424, p. 2367, § 4, effective June 4.

**22-43.7-107. Public school facility construction guidelines - establishment by board - use.** (1) (a) The board shall establish public school facility construction guidelines for use by the board in assessing and prioritizing public school capital construction needs throughout the state as required by section 22-43.7-108, reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of awards of financial assistance from the assistance fund only to applicants. The board shall establish the guidelines in rules promulgated in accordance with article 4 of title 24, C.R.S.

(b) It is the intent of the general assembly that the public school facility construction guidelines established by the board be used only for the purposes specified in paragraph (a) of this subsection (1).

(2) The public school facility construction guidelines shall identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost. In preparing the guidelines, the board shall address the following considerations:

(a) Health and safety issues, including security needs and all applicable building, health, safety, and environmental codes and standards required by state and federal law;

(b) Technology, including but not limited to telecommunications and internet connectivity technology and technology for individual student learning and classroom instruction;

(c) Building site requirements;

(d) Building performance standards and guidelines, including but not limited to green building and energy efficiency criteria as specified in executive order D0012 07, "Greening of State Government: Detailed Implementation", issued by the governor on April 16, 2007, or any subsequent executive orders or other policy directives concerning green building and energy efficiency criteria issued by the governor or the Colorado energy office;

(e) Functionality of existing and planned public school facilities for core educational programs, particularly those educational programs for which the state board has adopted state model content standards;

(f) Capacity of existing and planned public school facilities, taking into consideration potential expansion of services for the benefit of students such as full-day kindergarten and preschool- and school-based health services;

(g) Public school facility accessibility; and

(h) The historic significance of existing public school facilities and the potential to meet current programming needs by rehabilitating such facilities.

(3) The board and the division shall apply the public school facility construction guidelines in conducting the financial assistance priority assessment required by section 22-43.7-108.

**Source:** L. 2008: Entire article R&RE, p. 1049, § 1, effective May 22. L. 2012: (2)(d) amended, (HB 12-1315), ch. 224, p. 958, § 4, effective July 1.

**22-43.7-108. Statewide financial assistance priority assessment - public school facilities.** (1) (a) As soon as possible following the establishment of the public school facility construction guidelines pursuant to section 22-43.7-107, the board shall conduct with the assistance of the division, or contract for, a financial assistance priority assessment of public school facilities throughout the state as provided in this section. The board shall order payment of the costs incurred in conducting or contracting for the financial assistance priority assessment from the assistance fund.



(b) It is the intent of the general assembly that the financial assistance priority assessment required by this section be used only for the purposes specified in paragraph (a) of this subsection (1) and section 22-43.7-107 (1) (a).

(2) (a) The financial assistance priority assessment shall assess public school facility capital construction projects based on:

- (I) The condition of the public school facility;
- (II) Air and water quality in the public school facility;
- (III) Public school facility space requirements;
- (IV) The ability to accommodate educational technology, including but not limited to technology for individual student learning and classroom instruction;
- (V) Site requirements for the public school facility; and
- (VI) Public school facility demographics, including a five-year projection concerning anticipated substantial changes in the pupil count of individual public school facilities.

(b) The financial assistance priority assessment shall include five-year projections regarding the issues described in paragraph (a) of this subsection (2).

(c) The board, or the division upon the board's request, shall establish a database to store the data collected through the financial assistance priority assessment conducted pursuant to this section. The board or the division shall make the data collected available to the public in a form that is easily accessible and complies with any federal or state laws or regulations concerning privacy.

(3) The board shall use the public school facility construction guidelines established pursuant to section 22-43.7-107 in conducting the financial assistance priority assessment described in this section.

**Source: L. 2008:** Entire article R&RE, p. 1050, § 1, effective May 22.

**22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements.** (1) For fiscal years commencing on or after July 1, 2008, the board, with the support of the division and subject to the final approval of the state board regarding financial assistance awards as specified in this section, shall provide financial assistance as specified in this section subject to the following limitations:

(a) The board may only provide financial assistance for a capital construction project for a public school facility that the applicant owns or will have the right to own in the future under the terms of a lease-purchase agreement with the owner of the facility or a sublease-purchase agreement with the state entered into pursuant to section 22-43.7-110 (2).

(b) The board may provide financial assistance to a charter school that first occupies a public school facility on or after May 22, 2008, only if the public school facility occupied by the charter school complied with all public school facilities construction guidelines addressing health and safety issues established by the board pursuant to section 22-43.7-107 (2) (a) at the time the charter school first occupied the facility.

(2) (a) Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (2), the board shall establish an annual financial assistance timeline for use by applicants in applying for financial assistance and otherwise meeting financial assistance requirements and for use by the board in reviewing financial assistance applications and recommending financial assistance awards to the state board. The timeline shall specify:

(I) A deadline for applicants to submit financial assistance applications to the board that allows sufficient time for submission of such applications;

(II) The period in which the board, with the support of the division, will review financial assistance applications;

(III) A deadline for the board to submit to the state board the prioritized list of projects for which the board recommends the provision of financial assistance as required by subsection (7) of this section; and

(IV) Any additional deadlines or deadline extension periods needed to ensure that applicants seeking voter approval to obtain matching moneys required pursuant to subsection (9) of this section have sufficient opportunity to obtain such voter approval or otherwise needed to ensure the efficient and effective administration of this article.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2):

(I) The board:

(A) After receiving an application for emergency financial assistance made pursuant to subsection (8) of this section, may provide emergency financial assistance to an applicant at any time; and

(B) May establish a timeline for the 2008-09 fiscal year or the 2008-09 and 2009-10 fiscal years only that takes into account any incomplete status of the priority assessment required by section 22-43.7-108, allows awards of financial assistance to be made based on consideration of so much of the assessment as has been completed, and differs from subsequent annual timelines.

(II) In order to ensure efficient submission and review of financial assistance applications and allow the board to provide financial assistance as soon as is feasible, on and after May 22, 2008, but before the appointment of the board, the state board, or such personnel of the department as the state board may designate, may establish interim financial assistance application deadlines and applications for use by applicants in applying for financial assistance for the 2008-09 fiscal year only. The state board may also designate department personnel to preliminarily review financial assistance applications until such time as the board and the director of the division have been appointed.

(3) A charter school shall notify its authorizer that it intends to apply for financial assistance at least four months prior to the application submission deadline. The charter school shall forward its application for financial assistance to its authorizer, which shall forward the application to the board together with a letter indicating the authorizer's position on the application. The Colorado school for the deaf and blind shall apply for financial assistance directly. Financial assistance awarded to a charter school as a matching cash grant shall be provided to the authorizer, which shall distribute all financial assistance received as a grant to the charter school and may not retain any portion of such moneys for any purpose. All other financial assistance shall be provided in the form of lease payments made by the board directly to a lessor or trustee as required by the terms of the applicable lease-purchase agreement.

(4) Applications for financial assistance submitted to the board shall be in a form prescribed by the board and shall include:

(a) A description of the scope and nature of the public school facility capital construction project for which financial assistance is sought;

(b) A description of the architectural, functional, and construction standards that are to be applied to the capital construction project that indicates whether the standards are consistent with the public school facility construction guidelines established by the board pursuant to section 22-43.7-107 and provides an explanation for the use of any standard that is not consistent with the guidelines;

(c) The estimated amount of financial assistance needed for the capital construction project and the form and amount of matching moneys that the applicant will provide for the project;

(d) (I) If the capital construction project involves the construction of a new public school facility or a major renovation of an existing public school facility, a demonstration of the ability and willingness of the applicant to maintain the project over time that includes, at a minimum, the establishment of a capital renewal budget and a commitment to make annual contributions to a capital renewal reserve within a school district's capital reserve fund or any functionally similar reserve fund separately maintained by an applicant that is not a school district.

(II) As used in this paragraph (d), "capital renewal reserve" means moneys set aside by an applicant for the specific purpose of replacing major public school facility systems with projected life cycles such as roofs, interior finishes, electrical systems and heating, ventilating, and air conditioning systems.

(e) If the application is for financial assistance for the renovation, reconstruction, expansion, or replacement of an existing public school facility, a description of the condition of the public school facility at the time the applicant purchased or completed the construction of the public school facility and, if the public school facility was not new or



was not adequate at that time, the rationale of the applicant for purchasing the public school facility or constructing it in the manner in which it did;

(f) A statement regarding the means by which the applicant intends to provide matching moneys required for the projects, including but not limited to means such as voter-approved multiple-fiscal year debt or other financial obligations, gifts, grants, donations, a loan obtained pursuant to section 22-43.7-110.5, or any other means of financing permitted by law, or the intent of the applicant to seek a waiver of the matching moneys requirement pursuant to subsection (10) of this section. If an applicant that is a school district or a board of cooperative services with a participating school district intends to raise matching moneys by obtaining voter approval to enter into a sublease-purchase agreement that constitutes an indebtedness of the district as authorized by section 22-32-127, it shall indicate whether it has received the required voter approval or, if the election has not already been held, the anticipated date of the election.

(g) A description of any efforts by the applicant to coordinate capital construction projects with local governmental entities or community-based or other organizations that provide facilities or services that benefit the community in order to more efficiently or effectively provide such facilities or services, including but not limited to a description of any financial commitment received from any such entity or organization that will allow better leveraging of any financial assistance awarded; and

(h) Any other information that the board may require for the evaluation of the project.

(5) The board, taking into consideration the financial assistance priority assessment conducted pursuant to section 22-43.7-108, shall prioritize applications that describe public school facility capital construction projects deemed eligible for financial assistance based on the following criteria, in descending order of importance:

(a) (I) Projects that will address safety hazards or health concerns at existing public school facilities, including concerns relating to public school facility security.

(II) In prioritizing an application for a public school facility renovation project that will address safety hazards or health concerns, the board shall consider the condition of the entire public school facility for which the project is proposed and determine whether it would be more fiscally prudent to replace the entire facility than to provide financial assistance for the renovation project.

(b) Projects that will relieve overcrowding in public school facilities, including but not limited to projects that will allow students to move from temporary instructional facilities into permanent facilities;

(c) Projects that are designed to incorporate technology into the educational environment; and

(d) All other projects.

(6) The board may request that the division undertake a preliminary review of any or all applications for financial assistance, and the board may also request that any department, agency, or institution of state government with expertise or experience in construction management provide assistance to the board with regard to the evaluation of such applications for financial assistance.

(7) Pursuant to the timelines established pursuant to subsection (2) of this section for any fiscal year for which financial assistance is to be awarded, and after prioritizing public school facility capital construction projects as specified in subsection (5) of this section, the board shall submit to the state board a prioritized list of projects for which the board recommends the provision of financial assistance. The prioritized list shall include the board's recommendation as to the amount and type of financial assistance to be provided and a statement of the source and amount of applicant matching moneys for each recommended project based upon information provided by the applicant. The board may recommend that any specific project only receive financial assistance if another higher priority project or group of projects becomes ineligible for financial assistance due to the inability of an applicant to raise required matching moneys by a deadline prescribed by the board as a condition of a financial assistance award for the higher priority project or group of projects. The state board may approve, disapprove, or modify the provision of financial assistance for any project recommended by the board if the state board concludes that the board misinterpreted the results of the prioritization assessment conducted pursuant to

section 22-43.7-108 or misapplied the prioritization criteria specified in subsection (5) of this section. The state board shall specifically explain in writing its reasons for finding that the board misinterpreted the results of the priority assessment or misapplied the prioritization criteria when disapproving or modifying any financial assistance award recommended by the board.

(8) (a) Notwithstanding any other provision of this section, in the event of a public school facility emergency, an entity that may be an applicant and that is operating in the affected public school facility may submit an application to the board for emergency financial assistance to address the emergency. The application shall disclose any insurance proceeds, cash reserves, or capital construction reserves available to pay the costs of addressing the emergency, and insurance proceeds that become available only after an applicant has received emergency financial assistance shall be used first to reimburse the assistance fund for the emergency financial assistance. The board shall meet within fifteen days of receiving the application to determine whether to recommend to the state board that emergency financial assistance be provided, the amount of any assistance recommended to be provided, and any recommended conditions that the applicant must meet to receive the assistance. The state board shall meet within five days of receiving the board's recommendations to determine whether to authorize the board to award emergency financial assistance as recommended by the board, modify the recommended award of assistance, or prohibit the board from awarding assistance. The board may use any unencumbered and unexpended moneys in the assistance fund, including the emergency reserve of the assistance fund, to provide emergency financial assistance.

(b) As used in this subsection (8), "public school facility emergency" means an unanticipated event that makes all or a significant portion of a public school facility unusable for educational purposes or threatens the health or safety of persons using the public school facility.

(9) Except as otherwise provided in subsection (10) of this section, the board shall recommend and the state board shall approve financial assistance for a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

(a) With respect to a school district's application for financial assistance:

(I) The school district's assessed value per pupil relative to the state average;

(II) The school district's median household income relative to the state average;

(III) The school district's bond redemption fund mill levy relative to the statewide average;

(IV) The percentage of pupils enrolled in the school district who are eligible for free or reduced-cost lunch; and

(V) The amount of effort put forth by the school district to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to a ballot question for entry by the district into a sublease-purchase agreement of the type that constitutes an indebtedness of the district pursuant to section 22-32-127, during the ten years preceding the year in which the district submitted the application, which factor may be used only to reduce the percentage of matching moneys required from a district that has put forth such effort and not to increase the amount of matching moneys required from any district;

(b) With respect to a board of cooperative services' application for financial assistance:

(I) The average assessed value per pupil of all members of the board of cooperative services participating in the capital construction project relative to the state average;

(II) The average median household income of all members of the board of cooperative services participating in the capital construction project relative to the state average;

(III) The average bond redemption fund mill levy of all members of the board of cooperative services participating in the capital construction project relative to the statewide average;

(IV) The percentage of pupils enrolled in the member schools within the board of cooperative services that are participating in the capital construction project who are eligible for free or reduced-cost lunch; and



(V) The amount of effort put forth by the members of the board of cooperative services to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to a ballot question for entry by any member into a sublease-purchase agreement of the type that constitutes an indebtedness of the member pursuant to section 22-32-127, during the ten years preceding the year in which the board of cooperative services submitted the application, which factor may be used only to reduce the percentage of matching moneys required from a board of cooperative services whose members, or any of them, have put forth such effort and not to increase the amount of matching moneys required from any board of cooperative services;

(c) With respect to a charter school's application for financial assistance:

(I) The weighted average of the match percentages for the school districts of residence for the students enrolled in a district charter school or fifty percent of the average of the match percentages for all school districts in the state for an institute charter school;

(II) Whether the charter school's authorizer retains no more than ten percent of its capacity to issue bonds pursuant to article 42 of this title;

(III) Whether the charter school is operating in a district-owned facility at the time it submits its application;

(IV) In the ten years preceding the year in which the charter school submits the application, the number of times the charter school has attempted to obtain or has obtained:

(A) Bond proceeds pursuant to section 22-30.5-404 through inclusion in a ballot measure submitted by the charter school's authorizer to the registered electors of the school district;

(B) Proceeds from a special mill levy for capital needs pursuant to section 22-30.5-405;

(C) Grant funding for capital needs from a source other than the assistance fund; and

(D) Funding for capital construction from bonds issued on its behalf by the Colorado educational and cultural facilities authority created and existing pursuant to section 23-15-104 (1) (a), C.R.S., or from some other source of financing;

(V) If the charter school is a district charter school, the student enrollment of the charter school as a percentage of the student enrollment of the charter school's authorizing school district;

(VI) The percentage of students enrolled in the charter school who are eligible for the federal free and reduced-cost lunch program in relation to the overall percentage of students enrolled in the public schools in the state who are eligible for the federal free and reduced-cost lunch program;

(VII) The percentage of the per pupil revenue received by the charter school that the charter school spends on facility costs other than facilities operations and maintenance; and

(VIII) The charter school's unreserved fund balance as a percentage of its annual budget.

(10) (a) A school district shall not be required to provide any amount of matching moneys in excess of the difference between the school district's limit of bonded indebtedness, as calculated pursuant to section 22-42-104, and the total amount of outstanding bonded indebtedness already incurred by the school district.

(b) An applicant may apply to the board for a waiver or reduction of the matching moneys requirement specified in subsection (9) of this section. The board may grant a waiver or reduction if it determines that the waiver or reduction would significantly enhance educational opportunity and quality within a school district, board of cooperative services, or applicant school, that the cost of complying with the matching moneys requirement would significantly limit educational opportunities within a school district, board of cooperative services, or applicant school, or that extenuating circumstances deemed significant by the board make a waiver appropriate.

(c) The amount of bonded indebtedness that a school district that is a member of a board of cooperative services incurs in order to provide matching moneys for the board of cooperative services shall not constitute bonded indebtedness of the school district subject to the limits on bonded indebtedness specified in section 22-42-104.

(11) In determining the amount of each recommended award of financial assistance, the board shall seek to be as equitable as practicable by considering the total financial capacity of each applicant.

(12) Notwithstanding any provision of this section to the contrary, the match percentage for a charter school calculated pursuant to paragraph (c) of subsection (9) of this section shall not be higher than the highest match percentage for a school district, or lower than the lowest match percentage for a school district, in the same grant cycle.

**Source:** **L. 2008:** Entire article R&RE, p. 1051, § 1, effective May 22. **L. 2009:** (9)(c)(II) repealed, (SB 09-256), ch. 294, p. 1569, § 37, effective May 21; (2)(b)(I)(B) amended, (SB 09-257), ch. 424, p. 2367, § 5, effective June 4; (9)(c)(III.5) added, (SB 09-089), ch. 440, p. 2442, § 8, effective June 4; (9)(c)(IV) amended, (SB 09-292), ch. 369, p. 1963, § 63, effective August 5. **L. 2010:** (9)(c)(I) amended, (HB 10-1013), ch. 399, p. 1914, § 40, effective June 10; (9)(c)(III.5) amended, (SB 10-111), ch. 170, p. 602, § 8, effective August 11. **L. 2012:** (3), (4)(f), and (9)(c) amended and (12) added, (SB 12-121), ch. 177, p. 633, § 1, effective May 11.

**22-43.7-110. Financial assistance - grants - lease-purchase agreements.** (1) The board may provide financial assistance for those public school facility capital construction projects for which the state board has authorized the provision of financial assistance pursuant to section 22-43.7-109 (7) by providing matching grants from the assistance fund.

(2) Subject to the following requirements and limitations, the board may also instruct the state treasurer to enter into lease-purchase agreements on behalf of the state to provide financial assistance to applicants by financing public school facility capital construction projects for which the state board has authorized the provision of financial assistance pursuant to section 22-43.7-109 (7):

(a) Subject to the limitation specified in paragraph (b) of this subsection (2), the maximum total amount of annual lease payments payable by the state during any fiscal year under the terms of all outstanding lease-purchase agreements entered into by the state treasurer as instructed by the board pursuant to this subsection (2) is:

- (I) Twenty million dollars for the 2008-09 fiscal year;
- (II) Forty million dollars for the 2009-10 fiscal year;
- (III) Sixty million dollars for the 2010-11 fiscal year; and
- (IV) Eighty million dollars for the 2011-12 fiscal year and for each fiscal year thereafter.

(b) (I) The state treasurer may enter into lease-purchase agreements for which the aggregate annual lease payments of principal or interest for any fiscal year exceed one-half of the maximum total amount of annual lease payments permitted for the fiscal year pursuant to paragraph (a) of this subsection (2) only if the aggregate amount of matching moneys expected to be credited to the assistance fund pursuant to paragraph (c) of this subsection (2) and section 22-43.7-104 (2) (b) (IV) and any interest or income derived from the deposit and investment of the matching moneys is at least equal to the annual lease payments of principal and interest that exceed one-half of said maximum total amount.

(II) For purposes of subparagraph (I) of this paragraph (b), in calculating one-half the maximum total amount of annual lease payments permitted for the fiscal year pursuant to paragraph (a) of this subsection (2), the state treasurer shall not include any amount of annual lease payments of principal or interest that are attributable to loans of matching moneys for eligible charter schools that the board approves pursuant to section 22-43.7-110.5.

(c) Whenever the state treasurer enters into a lease-purchase agreement on behalf of the state pursuant to this subsection (2) to finance a public school facility, the board shall enter into a sublease-purchase agreement for the facility on behalf of the state with the applicant that will use the facility. The sublease-purchase agreement shall require the applicant to perform for the state all duties of the state to maintain and operate the public school facility that are required by the lease-purchase agreement and to make periodic rental payments to the state, which payments shall be credited to the assistance fund as matching moneys of the applicant. The sublease-purchase agreement shall also provide for the transfer of ownership of the public school facility from the state to the applicant upon the fulfillment of both the state's obligations under the lease-purchase agreement and the applicant's obligations under the sublease-purchase agreement. A sublease-purchase agreement may



provide that the legal obligation of an applicant to make periodic rental payments is subject to the annual appropriation of moneys for that purpose by the applicant if the absence of such a provision would create a district multiple-year fiscal obligation without voter approval in advance in violation of section 20 (4) (b) of article X of the state constitution.

(d) A lease-purchase agreement entered into by the state treasurer on behalf of the state pursuant to this subsection (2) shall provide that all payment obligations of the state under the agreement are subject to annual appropriation by the general assembly and that obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state.

(e) A lease-purchase agreement entered into by the state treasurer on behalf of the state pursuant to this subsection (2) may contain such terms, provisions, and conditions as the state treasurer may deem appropriate. The provisions shall allow the state to receive title to the real and personal property that is the subject of the agreement on or prior to the expiration of the entire term of the agreement, including all optional renewal terms. Such a lease-purchase agreement may further provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the agreement. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state. Interest paid under a lease-purchase agreement, including interest represented by such instruments, shall be exempt from Colorado income tax.

(f) The board may only enter into a sublease-purchase agreement on behalf of the state pursuant to this subsection (2) if the state treasurer has reviewed the agreement and provided written authorization to the board to enter into the agreement.

(g) If the state treasurer deems it to be necessary or advisable, the state treasurer may enter into a lease-purchase agreement on behalf of the state for only a portion of a public school facility for which financial assistance is being provided or for all or a portion of a different public school facility or other property of a school district.

(h) Notwithstanding the authority of the board to instruct the state treasurer to enter into lease-purchase agreements on behalf of the state, in order to ensure that lease-purchase agreements are entered into under favorable financial market conditions, the state treasurer shall have sole discretion to determine the timing of the state treasurer's entry into any lease-purchase agreement on behalf of the state pursuant to this subsection (2).

**Source: L. 2008:** Entire article R&RE, p. 1058, § 1, effective May 22. **L. 2009:** (2)(b) amended and (2)(g) and (2)(h) added, (SB 09-257), ch. 424, p. 2367, § 6, effective June 4. **L. 2012:** (2)(b) amended, (SB 12-121), ch. 177, p. 635, § 2, effective May 11.

**22-43.7-110.5. Charter school matching moneys loan program - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Eligible charter school" means a charter school that is:

(I) A qualified charter school as defined in section 22-30.5-408 (1) (c); and

(II) Authorized to receive financial assistance pursuant to section 22-43.7-109 (7).

(b) "Loan program" means the charter school matching moneys loan program created in this section.

(2) (a) There is hereby created the charter school matching moneys loan program to assist eligible charter schools in obtaining the matching moneys required for an award of financial assistance pursuant to section 22-43.7-109. Through the loan program, the board may approve a loan for an eligible charter school in an amount that does not exceed fifty percent of the amount of matching moneys calculated for the eligible charter school pursuant to section 22-43.7-109 (9) (c).

(b) The board shall direct the state treasurer to include the amount of a loan approved pursuant to this section in the lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) to provide financial assistance to the eligible charter school for which the loan is approved.

(3) An eligible charter school that chooses to seek a loan through the loan program shall apply to the board to receive a loan. The board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing the contents of a loan application and the timelines and procedures for applying for a loan through the loan program.

(4) To receive a loan through the loan program, an eligible charter school shall:

(a) Authorize the state treasurer to withhold moneys payable to the eligible charter school in the amount of the loan payments pursuant to the procedure described in section 22-30.5-406;

(b) Pay an interest rate on the loan that is equal to the interest rate paid by the state treasurer on the lease-purchase agreement entered into pursuant to section 22-43.7-110 to provide financial assistance to the eligible charter school for which the loan is approved;

(c) Amortize the loan payments over the same period in years as the lease-purchase agreement entered into pursuant to section 22-43.7-110 to provide financial assistance to the eligible charter school for which the loan is approved; except that the eligible charter school may pay the full amount of the loan early without incurring a prepayment penalty; and

(d) Create an escrow account for the benefit of the state with a balance in the amount of six months of loan payments.

**Source: L. 2012:** Entire section added, (SB 12-121), ch. 177, p. 636, § 3, effective May 11.

**22-43.7-111. Reporting requirements - auditing by state auditor.** (1) No later than February 15, 2010, and no later than each February 15 thereafter, the board shall present a written report to the education and finance committees of the house of representatives and the senate, or any successor committees, regarding the provision of financial assistance to applicants pursuant to this article. The report shall include, at a minimum:

(a) An accounting of the financial assistance provided through the prior fiscal year that includes:

(I) A statement of the aggregate amount of financial assistance awarded through the prior fiscal year, including statements of the amount of grants provided, and the amount of payments made and payments committed to be made but not yet made in connection with lease-purchase agreements;

(II) A statement of the aggregate amount of financial assistance provided as grants and the aggregate amount of payments made in connection with lease-purchase agreements during the prior fiscal year;

(III) A list of the public school facility capital construction projects for which financial assistance has been provided, including a brief description of each project, a statement of the amount and type of financial assistance provided for each project and, where applicable, the amount of financial assistance committed to be provided for but not yet provided for each project, a statement of the amount of matching moneys provided by the applicant for each project and, where applicable, the amount of matching moneys committed to be provided by the applicant but not yet provided for each project, and a summary of the reasons of the board and the state board for providing financial assistance for the project; and

(IV) A list of the public school facility capital construction projects for which financial assistance has been provided during the prior fiscal year, including a brief description of each project, a statement of the amount and type of financial assistance provided for each project, and a statement of the amount of matching moneys provided by the applicant for each project.

(b) A summary of the findings and conclusions of any public school facility inspections conducted during the prior fiscal year;

(c) A summary of any differences between the common physical design elements and characteristics of the highest performing schools in the state and the lowest performing schools in the state as measured by academic productivity measures such as the Colorado student assessment program created in part 4 of article 7 of this title or Colorado ACT results; and



(d) A list of the financial assistance applications for public school facility capital construction that were denied financial assistance during the prior fiscal year that includes for each project:

- (I) A brief project description;
- (II) A statement of the amount and type of financial assistance requested for the project;
- (III) A statement indicating whether or not the board recommended a financial assistance award for the project; and
- (IV) A summary of the reasons why the board or the state board denied financial assistance for the project.

(2) No later than February 15, 2014, the board shall prepare and make available electronically on the web site of the department a report to the taxpayers of the state regarding the provision of financial assistance to applicants pursuant to this article during the five prior fiscal years. The report shall include, at a minimum, the information specified in subsection (1) of this section for each of the five prior fiscal years and an aggregation of any of such information that can feasibly be aggregated for the full five-year period.

(3) The state auditor shall conduct or cause to be conducted a performance audit of the financial assistance grant and lease-purchase programs authorized by this article. The state auditor shall submit findings, conclusions, and recommendations resulting from the performance audit to the members of the legislative audit committee of the general assembly and to the members of the education and finance committees of the house of representatives and the senate, or any successor committees, no later than February 15, 2014.

**Source: L. 2008:** Entire article R&RE, p. 1060, § 1, effective May 22.

**22-43.7-112. Attorney general as legal advisor.** The attorney general shall act as legal advisor for the board, and with the consent of the attorney general, the board may employ additional legal counsel.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-113. Colorado school for the deaf and blind - special rules.** Except to the extent otherwise provided by the board in rules promulgated in accordance with article 4 of title 24, C.R.S., in order to account for any revenue-raising limitations of the Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1) (a) not shared by school districts, the school shall be subject to the same financial assistance application requirements and financial assistance prioritization criteria as a school district.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-114. Capital construction assistance awarded for fiscal year 2007-08 - continued payment.** Any capital construction assistance awarded to school districts or charter schools prior to the end of the 2007-08 fiscal year pursuant to this article, as it existed prior to May 22, 2008, shall continue to be paid.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-115. Tax increases not required.** Nothing in this article shall be deemed to require a school district to increase taxes.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-116. Open record and open meetings.** In exercising their powers and duties pursuant to this article, the board and the division shall be subject to the open meetings

provisions of the “Colorado Sunshine Act of 1972”, article 6 of title 24, C.R.S., as set forth in part 4 of said article, and the open records provisions set forth in article 72 of title 24, C.R.S.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

## PART 2

### FULL-DAY KINDERGARTEN FACILITY CAPITAL CONSTRUCTION ASSISTANCE

**Cross references:** For the legislative declaration contained in the 2008 act enacting this part 2, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-43.7-201. Full-day kindergarten facility capital construction fund - creation - definitions.** (1) (a) There is hereby established in the state treasury the full-day kindergarten facility capital construction fund, referred to in this part 2 as the “fund”. The fund shall consist of any moneys annually appropriated thereto by the general assembly for the purposes of this part 2. All interest and income earned on the deposit of moneys in the fund shall be credited to the fund. Except as otherwise provided in paragraph (b) of this subsection (1), any unexpended and unencumbered moneys remaining in the fund at the end of a budget year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) On June 30, 2011, the state treasurer shall transfer the balance of moneys in the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(2) The public school capital construction assistance board shall use the moneys in the fund to provide grants or matching grants to any school district or institute charter school that is undertaking a capital construction project to renovate a facility, rent a facility, or provide a temporary auxiliary facility that will be used in conjunction with providing a full-day kindergarten program. The board shall award a grant or matching grant pursuant to this part 2 to a school district or institute charter school only if, without the grant or matching grant, the school district or institute charter school would be unable to provide a facility in which to offer a full day of kindergarten to more students than were offered a full day of kindergarten in the 2007-08 budget year. For purposes of this part 2, “temporary auxiliary facility” means a temporary building that will be placed on the same campus as a main educational facility.

(3) Each budget year, the board shall use fifty percent of the moneys in the fund to provide grants pursuant to this part 2 and fifty percent of the moneys in the fund to provide matching grants pursuant to this part 2.

**Source: L. 2008:** Entire part added, p. 1214, § 26, effective May 22. **L. 2011:** (1) amended, (SB 11-218), ch. 151, p. 526, § 4, effective May 5.

**22-43.7-202. Applications for grants and matching grants - rules.** (1) Each applicant for a grant or matching grant pursuant to this part 2 shall submit an application to the board no later than July 1 for the budget year commencing on that July 1. An individual school of a school district, including a district charter school, may apply for a grant or matching grant through the school district in which the school is located, and the school district may then apply to the board for the grant or matching grant on behalf of the school. An institute charter school may apply directly to the board.

(2) The board or its designees shall evaluate each application submitted by a school district or an institute charter school based on the factors set forth in this section and such other factors as the board may establish by rule.

(3) Each application for a grant or a matching grant submitted to the board pursuant to this section shall be in a form prescribed by the board and shall include:

(a) A description of the scope and nature of the capital construction project to renovate a facility or provide a temporary auxiliary facility for a full-day kindergarten program;



- (b) A description of the architectural, functional, and construction standards that are to be applied to the facility that is the subject of the capital construction project;
  - (c) The total estimated cost of the capital construction project;
  - (d) The form and amount of financial effort that will be provided by the school district or the institute charter school for the capital construction project;
  - (e) A demonstration of the school district's or the institute charter school's ability and willingness to maintain a capital construction project funded pursuant to this part 2; and
  - (f) Any other information the board may reasonably require for the evaluation of the capital construction project.
- (4) The board shall prioritize each application for a grant or a matching grant that describes a capital construction project deemed eligible by the board for a grant or matching grant pursuant to this part 2. The board shall prioritize the applications based on the following criteria, in descending order of importance:
- (a) Capital construction projects in school districts or for institute charter schools in accounting districts that have reached ninety percent or more of their limit on bonded indebtedness under section 22-42-104; and
  - (b) Capital construction projects in school districts or for institute charter schools that have previously demonstrated consistent efforts to allocate moneys to the school districts' or institute charter schools' capital reserve fund.

**Source: L. 2008:** Entire part added, p. 1214, § 26, effective May 22. **L. 2009:** (4)(b) amended, (SB 09-256), ch. 294, p. 1570, § 38, effective May 21.

**22-43.7-203. Full-day kindergarten facility capital construction projects - prioritization.** (1) From the applications submitted for grants or matching grants pursuant to section 22-43.7-202, the board shall annually prepare a prioritized list of capital construction projects to provide facilities for full-day kindergarten programs. The board shall then determine the type and amount of the grant or matching grant to be awarded to each eligible capital construction project based on the information provided by the school district or the institute charter school in the application.

(2) The board shall submit to the state board the prioritized list of capital construction projects prepared pursuant to subsection (1) of this section. The prioritized list shall include the board's recommendations as to the amount of financial assistance to be provided to applicants and whether the assistance should be in the form of a grant or a matching grant. The state board may approve, disapprove, or modify the provision of financial assistance to any applicant recommended by the board if the state board finds that the board incorrectly prioritized the capital construction projects pursuant to this part 2. The state board shall specifically explain in writing its reasons for finding that the board incorrectly prioritized any capital construction project pursuant to this part 2.

(3) In prioritizing capital construction projects and awarding grants and matching grants pursuant to this part 2, the board shall attempt to maximize the total number of students statewide who will be able to attend a full day of kindergarten due to the availability of a renovated facility or temporary auxiliary facility for a full-day kindergarten program.

(4) It is the intent of the general assembly that school districts give consideration to the needs of both traditional public schools and charter schools established pursuant to article 30.5 of this title when submitting applications for grants or matching grants pursuant to this section.

(5) It is the intent of the general assembly that a grant or matching grant awarded to a school district or institute charter school pursuant to this part 2 shall not be taken into consideration when the board prioritizes capital construction projects pursuant to part 1 of this article. Nothing in this part 2 shall be construed to limit or otherwise affect the authority of the board to prioritize capital construction projects pursuant to part 1 of this article.

**Source: L. 2008:** Entire part added, p. 1215, § 26, effective May 22.

ARTICLE 44

Budget Policies and Procedures

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

PART 1		22-44-117.	Budget - minimum content. (Repealed)
SCHOOL DISTRICT BUDGET LAW		22-44-118.	Full-day kindergarten reserve - tracking of expenditures - preschool programs - rules.
22-44-101.	Short title.	22-44-119.	Fiscal emergency restricted reserve.
22-44-102.	Definitions.	PART 2	
22-44-103.	Budget and appropriation - required.	FINANCIAL POLICIES AND PROCEDURES	
22-44-103.5.	Budget for 1992 transitional fiscal year - budget years thereafter.	22-44-201.	Short title.
22-44-104.	Failure to adopt budget or appropriation.	22-44-202.	Legislative declaration.
22-44-105.	Budget - contents - mandatory.	22-44-203.	Adoption and compatibility of handbook.
22-44-106.	Contingency reserve - operating reserve.	22-44-204.	Use of handbook by school districts.
22-44-107.	Appropriation resolution - required.	22-44-205.	Reports. (Repealed)
22-44-108.	Preparation of budget.	22-44-206.	Administration.
22-44-109.	Notice of budget - publication.	PART 3	
22-44-110.	Budget - consideration - adoption.	PUBLIC SCHOOL FINANCIAL TRANSPARENCY ACT	
22-44-111.	Budget - filing.	22-44-301.	Short title.
22-44-112.	Transfer of moneys.	22-44-302.	Legislative declaration.
22-44-113.	Borrowing from funds.	22-44-303.	Definitions.
22-44-114.	Record of expenditures.	22-44-304.	Financial reporting - on-line access to information.
22-44-115.	No obligation in excess of appropriation.		
22-44-115.5.	Fiscal emergency - effect on budget.		
22-44-116.	Malfeasance - removal.		

PART 1

SCHOOL DISTRICT BUDGET LAW

**22-44-101. Short title.** This part 1 shall be known and may be cited as the “School District Budget Law of 1964”.

**Source:** L. 64: p. 617, § 1. C.R.S. 1963: § 123-32-1.

**22-44-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) “Appropriation” means the setting aside by resolution of a specified amount of money for a fund with an authorization to make expenditures and incur obligations for the purposes thereof.

(2) “Board of education” or “board” means the governing body of a school district.

(3) “Contingency” means an act of God or the public enemy, or some event which could not have been reasonably foreseen at the time of the adoption of the budget of a school district.

(4) (a) and (b) Repealed.

(c) Effective July 1, 1992, “fiscal year” means the period beginning on July 1 of each year and ending on the following June 30.



(5) “Function” means a classification within a fund in accordance with a major purpose including, but not limited to, administration, instruction, operation, or maintenance of a physical plant.

(6) “Fund” means a sum of money or other resource set aside for a specific purpose of a school district. The accounts thereof constitute a complete entity, and all of the financial transactions for a particular fund shall be recorded in said fund.

(7) “Object” means a classification within a function in accordance with the article or service received in return for expenditures including, but not limited to, personal services, materials, supplies, or equipment.

(7.3) “Ongoing deficit” means any negative amount reported in the annual financial audit or submitted through the department’s financial data-collection process by the school district, board of cooperative services, charter school, or charter school institute in the unassigned fund balance for governmental funds or unrestricted net assets for proprietary funds as identified in the standard statewide chart of accounts.

(7.5) “Pupil enrollment count day” has the same meaning as set forth in section 22-54-103 (10.5).

(8) “School district” or “district” means a school district or a junior college district organized and existing pursuant to law.

**Source:** L. 64: p. 617, § 2. C.R.S. 1963: § 123-32-2. L. 74: (4) amended, p. 378, § 1, effective April 1; (4) amended, p. 379, effective May 14. L. 81: (1) amended, p. 2026, § 23, effective July 14. L. 87: (4) amended, p. 831, § 2, effective July 1. L. 88: (4)(b) and (4)(c) repealed, p. 824, § 39, effective May 24. L. 89: (4)(b) RC&RE, p. 966, § 13, effective June 7. L. 90: (4) R&RE, p. 1052, § 1, effective May 31. L. 2012: (7.5) added, (HB 12-1090), ch. 44, p. 154, § 18, effective March 22; (7.3) added, (HB 12-1240), ch. 258, p. 1312, § 17, effective June 4.

**Editor’s note:** Subsection (4)(a) provided for the repeal of subsection (4)(a), effective January 1, 1992. (See L. 90, p. 1052.) Subsection (4)(b) provided for the repeal of subsection (4)(b), effective July 1, 1992. (See L. 90, p. 1052.)

**22-44-103. Budget and appropriation - required.** (1) The board of education of each school district shall adopt a budget and an appropriation resolution for each fiscal year, prior to the beginning of the fiscal year. The board shall ensure that the district uses the full accrual basis of accounting when budgeting and accounting for any enterprise funds included in the district budget.

(2) If a new school district is organized during a fiscal year and the school districts included therein do not operate the schools until the end of the school year, the board of education of the newly organized district shall adopt a budget and appropriation resolution to cover only the remaining portion of the fiscal year. Such budget shall be based on the total of the amounts budgeted and appropriated by the board of education of any former district wholly included in the new district and the pro rata amounts budgeted and appropriated by the board of education of any district only partly included therein, to the respective funds, functions, and objects in the budget of the newly organized district.

**Source:** L. 64: p. 618, § 3. C.R.S. 1963: § 123-32-3. L. 2003: (1) amended, p. 1284, § 3, effective July 1.

**22-44-103.5. Budget for 1992 transitional fiscal year - budget years thereafter.** (1) In order to implement the change in the school district fiscal year on July 1, 1992, the six-month period beginning on January 1, 1992, and ending on June 30, 1992, shall be the 1992 transitional fiscal year. The board of education of each school district shall adopt a budget and an appropriation resolution for such transitional fiscal year in the manner provided by this part 1; except that the total amount that may be budgeted and appropriated from revenues in the general fund generated pursuant to the “Public School Finance Act of 1988”, former article 53 of this title, for expenditure during such transitional fiscal year

shall not exceed the equalization program funding of such district as determined pursuant to former section 22-53-107 (5), the preschool program funding as determined pursuant to former section 22-53-115.5 (1.5), if any, and the program funding for three- and four-year-old children with disabilities as determined pursuant to former section 22-53-116.5 (2), if any.

(2) (a) Notwithstanding the provisions of section 39-1-112, C.R.S., revenues generated pursuant to the "Public School Finance Act of 1988" to fund the equalization program funding, the preschool program funding, and the program funding for three- and four-year-old children with disabilities of the district for the transitional fiscal year and any additional funds generated pursuant to the provisions of former section 22-53-114 (10) of said act, including property tax revenues collected during the 1992 calendar year which are in excess of the funding for such programs during such fiscal year, shall not be expended during such fiscal year but shall be carried forward in the general fund to the 1992-93 fiscal year.

(b) (I) Except as otherwise provided in paragraph (c) of this subsection (2), the property tax revenue carried forward to the 1992-93 fiscal year and any property tax revenue collected during the first six months of the 1992-93 budget year shall be used to offset the state's share of the district's equalization program funding for said fiscal year. Any property tax revenue not used to offset state aid during the 1992-93 fiscal year shall not be expended in said fiscal year but shall be carried forward in the general fund to the 1993-94 fiscal year.

(II) The property tax revenue carried forward to the 1993-94 fiscal year shall be used to offset the state's share of the district's equalization program funding for said fiscal year.

(III) (A) Of the districts subject to the provisions of this paragraph (b), this subparagraph (III) shall only apply to those districts with property tax revenue carried forward which is not completely offset against the state's share of the district's equalization program funding in the 1992-93 and 1993-94 fiscal years.

(B) The board of education of a district subject to the provisions of this subparagraph (III) shall reduce its mill levy for the 1993 property tax year so that the property tax revenue collected in 1994, assuming one hundred percent collection, equals the district's share of equalization program funding for the 1993-94 fiscal year plus any amount of categorical support funds the district is required to replace with property tax revenue during the 1993-94 fiscal year reduced by the amount of property tax revenue carried forward which was not offset against the state's share of equalization program funding for the 1992-93 and 1993-94 fiscal years. Any district that reduces its mill levy for the 1993 property tax year shall be subject to the provisions of former section 22-53-114 (9.2).

(C) In lieu of reducing the mill levy pursuant to the provisions of sub-subparagraph (B) of this subparagraph (III), the board of education of any district subject to the provisions of this subparagraph (III) may, by a two-thirds vote of the board, elect to keep the amount of property tax revenue carried forward which was not offset against the state's share of equalization program funding for the 1992-93 and 1993-94 fiscal years. Once such an election is made, the board of education may use its excess property tax revenue for any lawful purpose during the 1993-94 fiscal year and fiscal years thereafter. Notwithstanding the provisions of former section 22-53-114 (1) or section 22-54-106, no district which elects to keep its excess property tax revenue pursuant to the provisions of this sub-subparagraph (C) shall receive state aid or receive categorical support funds which the district would otherwise be eligible to receive from the state during the 1994-95 fiscal year and fiscal years thereafter until such time as the amount of state aid or categorical support funds the district would have received during said years equals the amount of the excess property tax revenue.

(D) Notwithstanding the provisions of sub-subparagraph (C) of this subparagraph (III), for the 1995-96 fiscal year and fiscal years thereafter, the amount of property tax revenue carried forward shall be offset against any state aid or categorical support funds that the district would otherwise be eligible to receive from the state during the 1995-96 fiscal year and fiscal years thereafter. After the offset is made in each fiscal year, the board of education may use its excess property tax revenue for any capital projects and may use no more than ten percent of the excess property tax revenue remaining to be offset at the end of the fiscal year for any lawful purpose. The amount of excess property tax revenue remaining to be



offset shall be reduced each year by ten percent and the amount of any capital projects on which the money is spent. By January 30 of each fiscal year, the board of education shall certify to the state department of education the total amount of excess property tax revenue spent or otherwise encumbered on capital projects for the fiscal year. Once the amount of excess property tax revenue remaining to be offset reaches zero, the district shall receive state aid or receive categorical support funds that the district would otherwise be eligible to receive from the state.

(c) (I) The provisions of this paragraph (c) shall only apply to districts that were eligible to receive only minimum state aid under former section 22-53-114 (1) of the "Public School Finance Act of 1988".

(II) The board of education of a district subject to the provisions of this paragraph (c) shall reduce its mill levy for the 1992 property tax year so that the property tax revenue collected in 1993, assuming one hundred percent collection, equals the district's share of equalization program funding for the 1992-93 fiscal year plus any amount of categorical support funds the district is required to replace with property tax revenue during the 1992-93 fiscal year reduced by the amount of excess property tax revenue collected during the 1992 calendar year.

(III) In lieu of reducing the mill levy pursuant to the provisions of subparagraph (II) of this paragraph (c), the board of education of any district subject to the provisions of this paragraph (c) may, by a two-thirds vote of the board, elect to keep its excess property tax revenue. Once such an election is made, the board of education may then use its excess property tax revenue for any lawful purpose during the 1992-93 fiscal year and fiscal years thereafter. Notwithstanding the provisions of former section 22-53-114 (1) or section 22-54-106, no district which elects to keep its excess property tax revenue pursuant to the provisions of this subparagraph (III) shall receive state aid during the 1992-93 fiscal year and fiscal years thereafter or receive categorical support funds which the district would otherwise be eligible to receive from the state for the 1993-94 fiscal year and fiscal years thereafter, until such time as the amount of state aid or categorical support funds the district would have received during said years equals the amount of the excess property tax revenue.

(IV) Notwithstanding the provisions of subparagraph (III) of this paragraph (c), for the 1995-96 fiscal year and fiscal years thereafter, the amount of property tax revenue carried forward shall be offset against any state aid or categorical support funds that the district would otherwise be eligible to receive from the state during the 1995-96 fiscal year and fiscal years thereafter. After the offset is made in each fiscal year, the board of education may use its excess property tax revenue for any capital projects and may use no more than ten percent of the excess property tax revenue remaining to be offset at the end of the fiscal year for any lawful purpose. The amount of excess property tax revenue remaining to be offset shall be reduced each year by ten percent and the amount of any capital projects on which the money is spent. By January 30 of each fiscal year, the board of education shall certify to the state department of education the total amount of excess property tax revenue spent or otherwise encumbered on capital projects for the fiscal year. Once the amount of excess property tax revenue remaining to be offset reaches zero, the district shall receive state aid or receive categorical support funds that the district would otherwise be eligible to receive from the state.

**Source:** L. 90: Entire section added, p. 1052, § 2, effective May 31. L. 91: Entire section amended, p. 448, § 1, effective April 11. L. 91, 2nd Ex. Sess.: Entire section amended, p. 32, § 1, effective November 8. L. 92: (2)(b) amended, p. 548, § 23, effective May 28. L. 93: (2)(b)(III)(B), (2)(b)(III)(C), and (2)(c)(III) amended, p. 890, § 15, effective May 6; (1) and (2)(a) amended, p. 1649, § 43, effective July 1. L. 94: (1), (2)(a), (2)(b)(III)(B), (2)(b)(III)(C), (2)(c)(I), and (2)(c)(III) amended, p. 816, § 35, effective April 27. L. 95: (2)(b)(III)(D) added, p. 610, § 9, effective May 22. L. 96: (2)(b)(III)(D) amended and (2)(c)(IV) added, p. 1797, §§ 14, 13, effective June 4.

**22-44-104. Failure to adopt budget or appropriation.** If a board of education fails or neglects to adopt a budget or an appropriation resolution prior to the beginning of the

ensuing fiscal year as required by section 22-44-103, then ninety percent of the amounts budgeted and appropriated to the funds, functions, and objects by the last duly adopted budget and appropriation resolution shall be deemed to be budgeted and appropriated by operation of law for the fiscal year for which no budget or appropriation resolution was adopted prior thereto; but an amount of money sufficient to satisfy all obligations of bonded indebtedness which will be due and payable during said fiscal year shall be deemed to be budgeted and appropriated by operation of law.

**Source: L. 64:** p. 618, § 4. **C.R.S. 1963:** § 123-32-4.

**22-44-105. Budget - contents - mandatory.** (1) The budget shall be presented in the standard budget report format established by the state board of education by rule pursuant to subsection (5) of this section. The standard budget report format established by the state board shall be substantially consistent from year to year and shall adhere to the following guidelines:

(a) The budget shall be presented in a summary format which is understandable by any layperson reviewing such budget.

(a.5) (Deleted by amendment, L. 93, p. 1873, § 1, effective June 6, 1993.)

(b) The budget shall be presented in a summary format which will allow for comparisons of revenues and expenditures among school districts by pupil.

(c) The budget shall be presented in a format that itemizes expenditures of the district by fund and by pupil. The budget shall:

(I) Describe the expenditure;

(II) Show the amount budgeted for the current fiscal year;

(III) Show the amount estimated to be expended for the current fiscal year; and

(IV) Show the amount budgeted for the ensuing fiscal year.

(V) Repealed.

(c.4) Upon review of the letter of intent submitted to the state treasurer and the department of education, the department of education will notify the board of education of the acceptance, if appropriate, of the use of real property for the establishment of a district emergency reserve pursuant to paragraph (c.5) of this subsection (1).

(c.5) The budget shall ensure that the school district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; except that, if a board of education provides for a district emergency reserve in the general fund for the budget year, established at an amount equal to at least three percent of the amount budgeted to the general fund, the board may:

(I) Designate real property owned by the district as all or a portion of the reserve required by section 20 (5) of article X of the state constitution so long as the board has filed with the state treasurer and the department of education a letter of intent that expresses the intent of the board to increase the liquidity of such property upon the occurrence of a declared emergency within the meaning of section 20 (5) of article X of the state constitution by entering into one or more lease-purchase agreements with respect to such property or by other means acceptable to the state treasurer; or

(II) Secure a letter of credit from an investment-grade bank as all or a portion of the reserve required by section 20 (5) of article X of the state constitution so long as the board has filed with the state treasurer and the department of education a letter of intent that expresses the intent of the board to satisfy its obligation to reimburse the bank for moneys drawn on the letter of credit upon the occurrence of a declared emergency within the meaning of section 20 (5) of article X of the state constitution that are not reimbursed to the bank within the same fiscal year by entering into lease-purchase agreements with respect to real property owned by the district.

(c.6) If at any time the board of education expends any moneys from the district emergency reserve created pursuant to paragraph (c.5) of this subsection (1), the board shall restore the reserve to three percent of the amount budgeted to the general fund as follows:

(I) If the board of education expends moneys from the district emergency reserve in a single fiscal year, the board shall restore the reserve pursuant to this paragraph (c.6) within thirty-six months of the first draw of the money from the reserve; and



(II) If the board of education expends moneys from the district emergency reserve in two consecutive fiscal years, the board shall restore the reserve pursuant to this paragraph (c.6) by the end of the fiscal year following the second fiscal year in which the board expended moneys from the reserve.

(c.7) The budget shall summarize revenues by revenue source and shall summarize expenditures by function, fund, and object.

(d) (Deleted by amendment, L. 97, p. 948, § 3, effective August 6, 1997.)

(d.5) The budget shall include a uniform summary sheet for each fund administered by the district that details the following for each fund:

(I) The beginning fund balance and the anticipated ending fund balance for the budget year;

(II) The anticipated fund revenues for the budget year, delineated by the program and source codes identified in the chart of accounts created pursuant to subsection (4) of this section;

(III) The anticipated transfers and allocations that will occur to and from the fund during the budget year;

(IV) The anticipated expenditures that will be made from the fund during the budget year, delineated by the program and object codes identified in the chart of accounts created pursuant to subsection (4) of this section; and

(V) The amount of reserves in the fund.

(e) (I) For the 1993-94 fiscal year, the budget format shall contain a provision under which any district which has a reduction in its 1993-94 per pupil funding, as defined in former section 22-53-107.3 (3) (a), of four and seven-tenths percent or more may declare an extreme emergency and may apply for additional funding from the contingency reserve pursuant to former section 22-53-124 (4). Such additional funding shall not result in a percentage reduction for an individual district which is less than the greater of four and five-tenths percent or four percent plus the percentage change in the district's per pupil funding from the 1992-93 budget year to the 1993-94 budget year which results from the application of former section 22-53-107 (5.5) (b) (II) or (5.5) (b) (III).

(II) If a district which declares an extreme emergency pursuant to subparagraph (I) of this paragraph (e) has property tax revenue carried forward under the provisions of section 22-44-103.5, such district shall not be eligible to receive additional funding from the contingency reserve. However, the district may expend such property tax revenue in the 1993-94 budget year in response to such extreme emergency and, if the district advises the state board of education of such expenditure, the amount expended, not to exceed the amount of additional funding allowed the district pursuant to subparagraph (I) of this paragraph (e), shall be subtracted from the amount of excess property tax revenue of the district which must be offset against state aid and categorical support funds pursuant to section 22-44-103.5 (2) (b) (III) (B) and (2) (c) (III).

(III) For purposes of determining the percentage change in the district's per pupil funding from the 1992-93 budget year to the 1993-94 budget year, the district's per pupil funding for the 1992-93 budget year shall be the amount derived by dividing the district's 1992-93 equalization program funding, as calculated pursuant to former section 22-53-107 (3), including the district's 1992-93 preschool program funding, if any, as calculated pursuant to former section 22-53-115.5, and the district's 1992-93 program funding for three- and four-year-old children with disabilities, if any, as calculated pursuant to former section 22-53-116.5, by the district's 1992-93 funded pupil count as defined in former section 22-53-107 (5.5) (c) (II). The district's per pupil funding for the 1993-94 budget year shall be the amount derived by dividing the district's 1993-94 equalization program funding, as calculated pursuant to former section 22-53-107 (5.5) (b) (II) or (5.5) (b) (III), whichever is applicable, by the district's 1993-94 funded pupil count as defined in former section 22-53-107 (5.5) (c) (III).

(1.5) (a) A budget adopted pursuant to this article shall not provide for expenditures, interfund transfers, or reserves, in excess of available revenues and beginning fund balances. If the budget includes the use of a beginning fund balance, the school district board of education shall adopt a resolution specifically authorizing the use of a portion of the beginning fund balance in the school district's budget. The resolution, at a minimum,

shall specify the amount of the beginning fund balance to be spent under the school district budget, state the purpose for which the expenditure is needed, and state the school district's plan to ensure that the use of the beginning fund balance will not lead to an ongoing deficit.

(b) Each school district shall annually prepare an itemized reconciliation between the fiscal year end fund balances based on the budgetary basis of accounting used by the school district and the fiscal year end fund balances based on the modified accrual basis of accounting. The reconciliation shall include, but need not be limited to, the liability for accrued salaries and related benefits. The reconciliation shall be included with the final version of the amended budget and the annual audited financial statements.

(c) If at any time during the fiscal year following the adoption of a budget by a board of education the school district determines that the use of an additional portion of the school district's beginning fund balance is necessary, the board of education shall adopt a resolution that meets at least the minimum requirements specified in paragraph (a) of this subsection (1.5) before using the additional portion of the beginning fund balance.

(2) The proposed expenditures and anticipated revenues in the budget shall be supported as needed by explanatory schedules or statements of sufficient detail to judge the validity thereof, including a statement which summarizes the aggregate of revenues, appropriations, assets, and liabilities of each fund in balanced relations. The budget shall disclose planned compliance with section 20 of article X of the state constitution.

(3) (Deleted by amendment, L. 93, p. 1873, § 1, effective June 6, 1993.)

(4) (a) Not later than July 1, 1998, the state board of education, with input from the financial policies and procedures advisory committee, shall establish and implement a statewide financial, student management, and human resource electronic data communications and reporting system that is based on a redesigned standard chart of accounts, a standard information system, and a standard personnel classification system. The department of education and all school districts and boards of cooperative services in the state shall use the system to report and obtain necessary financial information.

(b) In redesigning the financial and human resource reporting system pursuant to paragraph (a) of this section, the state board of education shall adhere to, but is not limited to, the following guidelines:

(I) The financial and human resource reporting system shall be based on a redesigned chart of accounts that will make school-to-school and school district-to-school district comparisons more accurate and meaningful;

(II) The financial and human resource reporting system shall provide standard definitions for employment positions such that full, accurate disclosure of administrative costs is made within the budgets and the financial statements of every school district;

(III) The financial reporting system shall make it possible to collect comparable data by program and school site.

(c) Nothing in this section shall be interpreted to require accounting of salary and benefit costs by school site.

(d) Repealed.

(5) No later than July 1, 2008, the state board of education, with input and recommendations from the financial policies and procedures advisory committee created in the department of education, shall establish by rule the standard budget report format to be used by each board of education.

**Source:** L. 64: p. 619, § 5. C.R.S. 1963: § 123-32-5. L. 75: (1)(a) and (1)(b) amended, (1)(c) repealed, and (3) added, pp. 706, 708, §§ 1, 10, 2, effective July 14. L. 88: (1)(a.5) added, p. 814, § 19, effective May 24. L. 93: Entire section amended, p. 1873, § 1, effective June 6. L. 94: (1)(b) and (1)(c) amended and (4) added, p. 589, § 2, effective April 7; (1)(e)(I) and (1)(e)(III) amended, p. 817, § 36, effective April 27; (1)(e)(III) amended, p. 1634, § 41, effective May 31; (1)(c) amended, p. 1791, § 6, effective January 1, 1995. L. 96: (4)(d) amended, p. 1800, § 24, effective June 4. L. 97: IP(1) and (1)(d) amended, p. 948, § 3, effective August 6. L. 2003: IP(1) amended and (1)(c.5) and (1.5) added, p. 1283, §§ 1, 2, effective July 1. L. 2006: (4)(d) repealed, p. 610, § 34, effective August 7. L. 2007: IP(1) amended and (1)(c.7) and (5) added, p. 743, §§ 19, 20, effective May 9. L. 2008: (1.5)(c) added, p. 1216, § 27, effective May 22; (1)(c)(V) repealed, p.



1901, § 83, effective August 5. **L. 2009:** (1)(c.5) amended and (1)(c.6) added, (SB 09-256), ch. 294, p. 1559, § 20, effective May 21. **L. 2010:** (1)(d.5) added, (HB 10-1013), ch. 399, p. 1900, § 8, effective June 10. **L. 2012:** (1)(c.4) added, (HB 12-1240), ch. 258, p. 1313, § 18, effective June 4.

**Editor's note:** Amendments to subsection (1)(c) in House Bill 94-1213 and House Bill 94-1298 were harmonized. Amendments to subsection (1)(e)(III) in House Bill 94-1001 and Senate Bill 94-206 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (1.5)(c), see section 1 of chapter 286, Session Laws of Colorado 2008.

#### **22-44-106. Contingency reserve - operating reserve.**

(1) Repealed.

(2) A board of education may provide for an operating reserve in the general fund, which reserve shall not exceed fifteen percent of the amount budgeted to the general fund for the current fiscal year. Such operating reserve shall not be appropriated nor shall any moneys therein be expended during the fiscal year covered by the budget, but such moneys shall be a continuing reserve and be considered as a beginning general fund balance for the next following fiscal year.

**Source:** **L. 64:** p. 619, § 6. **C.R.S. 1963:** § 123-32-6. **L. 90:** (1) repealed, p. 1099, § 64, effective May 31.

**22-44-107. Appropriation resolution - required.** (1) The board of education of each school district shall adopt an appropriation resolution at the time it adopts the budget. The appropriation resolution shall specify the amount of money appropriated to each fund; except that the operating reserve authorized by section 22-44-106 (2) shall not be subject to appropriation for the fiscal year covered by the budget and except that the appropriation resolution may by reference incorporate the budget as adopted by a board of education for the current fiscal year.

(2) The amounts appropriated to a fund shall not exceed the amount thereof as specified in the adopted budget.

**Source:** **L. 64:** p. 620, § 7. **C.R.S. 1963:** § 123-32-7. **L. 75:** Entire section amended, p. 706, § 3, effective July 14.

**22-44-108. Preparation of budget.** (1) (a) The board of education shall each year cause to be prepared a proposed budget for the ensuing fiscal year. A statement shall be submitted with the proposed budget describing the major objectives of the educational program to be undertaken by the school district during the ensuing fiscal year and the manner in which the budget proposes to fulfill such objectives.

(b) Repealed.

(c) The proposed budget shall be submitted to the board at least thirty days prior to the beginning of the next fiscal year.

(2) Upon receipt of the proposed budget and statement, the board of education may change the proposed budget and statement prior to the publication of the notice of budget required by section 22-44-109.

**Source:** **L. 64:** p. 620, § 8. **C.R.S. 1963:** § 123-32-8. **L. 74:** (1) amended, p. 379, § 2, effective July 1. **L. 89:** (1) amended, p. 1463, § 23, effective June 7. **L. 90:** (1) amended, p. 1053, § 3, effective May 31. **L. 2006:** (1)(c) amended, p. 610, § 35, effective August 7.

**Editor's note:** Subsection (1)(b) provided for the repeal of subsection (1)(b), effective July 1, 1992. (See L. 90, p. 1053.)

**22-44-109. Notice of budget - publication.** (1) Within ten days after submission of the proposed budget, the board of education shall cause to be published a notice stating that the proposed budget is on file at the principal administrative offices of the school district; that the proposed budget is available for inspection during reasonable business hours; that any person paying school taxes in the district may file or register an objection thereto at any time prior to its adoption; and that the board of education of the school district will consider adoption of the proposed budget for the ensuing fiscal year on the date, time, and place specified in the notice.

(2) Such notice shall be in substantially the following form:

**NOTICE OF PROPOSED SCHOOL BUDGET**

Notice is hereby given that a proposed budget has been submitted to the Board of Education of ..... (Name of school district) for the fiscal year beginning ..... and has been filed in the office of ..... where it is available for public inspection. Such proposed budget will be considered for adoption at a ..... (Regular or Special) meeting of the Board of Education of said District at ..... (Place) on ..... (Date) at ..... (Time). Any person paying school taxes in said district may at any time prior to the final adoption of the budget file or register his objections thereto.

**BOARD OF EDUCATION**

Dated.....

.....  
(Name of school district)  
.....  
(Secretary)

(3) Such notice shall be published at least once prior to the date specified for consideration of the budget in a newspaper having general circulation in the school district. If there is no newspaper having general circulation in the district, the secretary of the board of education shall cause the notice to be posted for at least fifteen days in the administrative offices of the district and in two other public places in the district.

**Source: L. 64: p. 620, § 9. C.R.S. 1963: § 123-32-9.**

**22-44-110. Budget - consideration - adoption.** (1) Any person paying school taxes in the school district is entitled to attend the meeting of the board of education at which the proposed budget for the district will be considered. At such meeting, the board shall review the functions and objects of the proposed budget. Any taxpayer or his representative is entitled to file or register objections to the proposed budget prior to its final adoption.

(2) It is not necessary for a board of education to formally adopt the budget on the date specified in the notice of consideration of the proposed budget, but if the budget is to be adopted at a future meeting, the date, time, and place of such meeting shall be entered in the minutes of the meeting of the board held for consideration of the proposed budget as specified in such notice.

(3) After the board of education has considered the objections of taxpayers, it may change the proposed budget in any manner deemed advisable. If a board increases the total expenditures, it shall provide also for increased revenues at least equal to or greater than the proposed increased expenditures.

(4) Prior to the beginning of the ensuing fiscal year, the board of education shall formally adopt the budget by appropriate resolution duly recorded. The words "Adopted Budget", the name of the school district, the date of adoption, and the signature of the president of the board shall be entered upon the adopted budget.



(5) After the adoption of the budget, the board may review and change the budget, with respect to both revenues and expenditures, at any time prior to January 31 of the fiscal year for which the budget was adopted. After January 31, the board shall not review or change the budget except as authorized by this article; except that, where money for a specific purpose from other than ad valorem taxes subsequently becomes available to meet a contingency, the board may adopt a supplemental budget for expenditures not to exceed the amount of said money and may appropriate said money therefrom.

(6) Effective July 1, 1992, if a school district is authorized to raise and expend additional local property tax revenues at an election held in November of any fiscal year pursuant to former section 22-53-117 or section 22-54-108 or 22-54-108.5, the board of education may adopt a supplemental budget and supplemental appropriation resolution to cover that portion of the fiscal year following such election. Such supplemental budget shall be based on the additional dollar amount authorized to be raised and expended at such election.

**Source:** L. 64: p. 621, § 10. C.R.S. 1963: § 123-32-10. L. 90: (6) added, p. 1053, § 4, effective May 31. L. 93: (5) amended, p. 888, § 11, effective May 6. L. 94: (5) amended, p. 590, § 3, effective April 7; (6) amended, p. 818, § 37, effective April 27. L. 99: (5) amended, p. 178, § 9, effective March 30. L. 2007: (6) amended, p. 38, § 5, effective March 7. L. 2008: (5) amended, p. 1216, § 28, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (5), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-44-111. Budget - filing.** (1) The board of education shall cause the adopted budget and the appropriation resolution to be placed on file at the principal administrative office of the school district, where they shall remain throughout the fiscal year and be open for inspection during reasonable business hours.

(2) and (3) Repealed.

**Source:** L. 64: p. 622, § 11. C.R.S. 1963: § 123-32-11. L. 93: (2) amended, p. 888, § 12, effective May 6. L. 99: (2) repealed, p. 178, § 10, effective March 30. L. 2007: (3) added, p. 743, § 21, effective May 9. L. 2010: (3) repealed, (HB 10-1171), ch. 401, p. 1934, § 3, effective August 11.

**22-44-112. Transfer of moneys.** (1) A board of education shall not transfer moneys from one fund to another, except as authorized and in the manner prescribed by this part 1.

(2) (a) A board of education may transfer by resolution any unencumbered moneys from one fund to another, except the transportation fund, the special building and technology fund, or the bond redemption fund.

(b) Repealed.

(3) (a) and (b) Repealed.

(c) If the resolution authorizes expenditures in excess of the amount budgeted and appropriated to a particular function, and there is no unencumbered appropriation available in another function to transfer to the function wherein additional expenditures are needed, the board of education may issue warrants to be registered, in order to provide for such excess expenditures. The total amount of warrants which may be issued and registered pursuant to this paragraph (c) during any one fiscal year shall not exceed an amount equal to that which could be raised by a two mill levy for the calendar year in which the second half of such fiscal year is included on the valuation for assessment of the taxable property located within the territorial limits of the school district. Transfers and excess expenditures pursuant to this paragraph (c) shall be deemed to be budgeted and appropriated for the purpose specified in the resolution upon the effective date of the resolution.

(4) Proceeds from the sale of bonds remaining after the completion of the project for which such bonds were authorized may be transferred to the bond redemption fund or, in the event all bonds have been redeemed, to the general fund. Moneys remaining in the bond

redemption fund after all obligations of bonded indebtedness have been satisfied shall be transferred to the general fund. Any moneys remaining in a particular account in the bond redemption fund, after all obligations of bonded indebtedness of that particular account have been satisfied, shall be transferred to another account within said bond redemption fund which still has outstanding obligations of bonded indebtedness.

(5) Repealed.

(6) Notwithstanding the provisions of this section, a junior college board of trustees may transfer moneys from the student activity fund and the food-service fund, or moneys from any other auxiliary enterprise fund, to the general obligation or revenue bond fund.

**Source:** L. 64: p. 622, § 12. C.R.S. 1963: § 123-32-12. L. 67: p. 975, § 1. L. 75: (1) and (2)(a) amended and (2)(b), (3)(a), (3)(b), and (5) repealed, pp. 707, 708, §§ 4, 10, effective July 14. L. 83: (2)(a) amended, p. 758, § 2, effective April 21. L. 86: (6) amended, p. 844, § 2, effective July 1. L. 88: (2)(a) amended, p. 814, § 20, effective May 24. L. 90: (3)(c) amended, p. 1083, § 42, effective May 31. L. 91: (2)(a) amended, p. 539, § 5, effective May 1. L. 97: (2)(a) amended, p. 75, § 3, effective March 24; (2)(a) amended, p. 585, § 12, effective April 30. L. 2009: (2)(a) amended, (SB 09-256), ch. 294, p. 1570, § 39, effective May 21.

**Editor's note:** Amendments to subsection (2)(a) by House Bill 97-1200 and House Bill 97-1249 were harmonized.

**22-44-113. Borrowing from funds.** (1) A board of education may borrow unencumbered moneys from any one fund, except the bond redemption fund, for the use of another fund at any time. All moneys borrowed from a fund pursuant to this subsection (1) shall be repaid to said fund when needed to meet the obligations of said fund, and all revenues credited to the borrowing fund shall be used first to repay the loan. Any such loan shall be repaid not later than three months after the beginning of the following budget year. In the event moneys are not forthcoming from designated sources, an amount equal to the outstanding liability shall be expended from the general fund and used to repay the loan. Such amount from the general fund shall be recorded as revenue in the receiving fund.

(2) Borrowing moneys from a fund pursuant to subsection (1) of this section shall be evidenced by a resolution duly adopted by the board of education authorizing such borrowing and shall be recorded in the minutes of the meeting of the board at which adopted. A copy of said resolution shall be filed with the employee or officer who issues checks, warrants, or orders on said school district.

(3) The provisions of this section shall apply to all funds created by law or regulation or by action of a school district.

**Source:** L. 64: p. 624, § 13. C.R.S. 1963: § 123-32-13. L. 81: (1) amended, p. 1073, § 1, effective July 1. L. 2003: (1) amended and (3) added, p. 1285, § 5, effective July 1.

**22-44-114. Record of expenditures.** Each board of education shall maintain a complete set of books of account as required by law.

**Source:** L. 64: p. 624, § 14. C.R.S. 1963: § 123-32-14.

**22-44-115. No obligation in excess of appropriation.** (1) A board of education of a school district shall not expend any moneys in excess of the amount appropriated by resolution for a particular fund.

(2) Repealed.

(3) Except as provided otherwise by this section, any obligation of a contract, verbal or written, which requires expenditures contrary to the provisions of subsection (1) of this section shall be void, and no school district moneys shall be paid thereon.

(4) Notwithstanding any provisions of this section to the contrary, the board of education of a school district may enter into a contract for administrative services with a



term not to exceed five years, for capital outlay purposes in accordance with articles 32, 42, 43, and 45 of this title, or for the purchase of real property by local junior college districts in accordance with section 23-71-122 (1) (c), C.R.S. Such a contract shall be valid and enforceable between parties to the contract. The provisions of this subsection (4) shall be subject to annual appropriation by the general assembly, the board of education, or the governing board.

**Source:** L. 64: p. 624, § 15. C.R.S. 1963: § 123-32-15. L. 67: p. 797, § 1. L. 75: (1) and (3) amended and (2) repealed, pp. 707, 708, §§ 5, 10, effective July 14; (4) amended, p. 1269, § 2, effective July 1. L. 83: (4) amended, p. 820, § 1, effective July 1. L. 85: (4) amended, p. 734, § 5, effective May 31.

#### ANNOTATION

The guiding policy behind the statutes regarding school district funding is that of the prevention of deficit spending. DAEOP v. Sch. Dist. No. 1, 972 P.2d 1047 (Colo. App. 1998).

Districts are not prohibited from adopting a contract or policy with fiscal implications over several years, however, districts are prevented from deficit spending by entering into

contracts that are not modifiable in subsequent years. Because district's policy created a conditional promise or commitment to provide early retirement benefits, the promise was binding, subject to availability of adequate appropriated funds. Shaw v. Sargent Sch. Dist. No. RE-33-J, 21 P.3d 446 (Colo. App. 2001).

**22-44-115.5. Fiscal emergency - effect on budget.** (1) During any budget year, if the board of education of the school district determines that the anticipated revenues specified in the budget and the amounts appropriated in the budget for expenditure exceed the actual revenues available to the school district due, in whole or in part, to action by the general assembly or the governor relating to the state appropriation for the district's total program pursuant to article 54 of this title, the board may declare a fiscal emergency in such budget year. A declaration of fiscal emergency may only occur upon an affirmative vote of two-thirds of the members of the board at a public meeting. Prior to any vote taken pursuant to this subsection (1), the board of education shall hold at least one public hearing within the district after full and timely notice to the public.

(2) If a fiscal emergency is declared by the board of education pursuant to subsection (1) of this section, the board may implement a reduction in salaries for all employees of the school district on a proportional basis or may alter the work year of such employees. Such reduction in salaries may be made notwithstanding the provisions of section 22-63-401 (3).

**Source:** L. 92: Entire section added, p. 541, § 15, effective May 28. L. 94: (1) amended, p. 818, § 38, effective April 27.

**22-44-116. Malfeasance - removal.** Any school director, officer, or employee of a school district who knowingly and willfully violates any provision of this part 1 or fails to perform any duty required by this part 1 is guilty of malfeasance in office or position of employment and, upon conviction thereof, the court shall order that such school director, officer, or employee be removed from his office or position of employment.

**Source:** L. 64: p. 624, § 16. C.R.S. 1963: § 123-32-16.

#### **22-44-117. Budget - minimum content. (Repealed)**

**Source:** L. 64: p. 625, § 17. C.R.S. 1963: § 123-32-17. L. 93: Entire section amended, p. 889, § 13, effective May 6; entire section repealed, p. 1875, § 2, effective June 6.

**22-44-118. Full-day kindergarten reserve - tracking of expenditures - preschool programs - rules.** (1) (a) Except as otherwise provided in paragraphs (b) and (c) of this

subsection (1), for the 2008-09 budget year and each budget year thereafter, a school district that does not report any full-day kindergarten pupils in the district's pupil enrollment count as of the pupil enrollment count day shall hold the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) in a full-day kindergarten reserve in the district's general fund. The district shall not use the moneys in the full-day kindergarten reserve until the district enrolls one or more pupils in full-day kindergarten in the district. Once the district enrolls pupils in full-day kindergarten in the district, the district shall not be required to maintain the full-day kindergarten reserve.

(b) For the 2008-09 budget year, a school district that does not report any full-day kindergarten pupils in the district's pupil enrollment count as of the pupil enrollment count day may use the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) for planning and facility preparation necessary for the district to offer a full-day kindergarten program in subsequent budget years. Each school district shall, on or before June 30, 2009, return to the department of education any unexpended and unencumbered amount remaining of the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d). The department of education shall adopt procedures for the implementation of this paragraph (b). The department of education shall transmit to the state treasurer the moneys received pursuant to this paragraph (b), and the state treasurer shall credit said moneys to the state education fund created pursuant to section 17 (4) of article IX of the state constitution.

(c) For the 2009-10 budget year, a school district that does not report any full-day kindergarten pupils in the district's pupil enrollment count as of the pupil enrollment count day may use the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) for planning and facility preparation necessary for the district to offer a full-day kindergarten program in subsequent budget years.

(2) The financial policies and procedures advisory committee created in the department of education shall establish by rule, tracking requirements deemed necessary by the committee for the moneys that a district receives through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) and hold-harmless full-day kindergarten funding pursuant to section 22-54-130 to provide full-day kindergarten programs and, if applicable, through the Colorado preschool program pursuant to article 28 of this title to provide preschool programs.

**Source:** **L. 2008:** Entire section added, p. 1217, § 29, effective May 22. **L. 2009:** (1) amended, (SB 09-256), ch. 294, p. 1568, § 34, effective May 21. **L. 2012:** (1) amended, (HB 12-1090), ch. 44, p. 154, § 19, effective March 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-44-119. Fiscal emergency restricted reserve.** For the 2009-10 budget year, each school district and the state charter school institute shall budget a total dollar amount determined by the department of education to a fiscal emergency restricted reserve in the general fund. The amount budgeted by each school district and the state charter school institute shall be released for expenditure by the district or for distribution to institute charter schools by the state charter school institute, as applicable, on January 29, 2010, if a negative supplemental appropriation to effect a rescission of the total amount of the restricted reserve as specified in section 22-54-106.5 (3), or any portion thereof, has not been enacted and become law by said date.

**Source:** **L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1560, § 21, effective May 21.



## PART 2

## FINANCIAL POLICIES AND PROCEDURES

**Editor's note:** This part 2 was numbered as article 42 of chapter 123, C.R.S. 1963. The provisions of this part 2 were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-44-201. Short title.** This part 2 shall be known and may be cited as the "Financial Policies and Procedures Act".

**Source:** L. 73: R&RE, p. 1298, § 1. C.R.S. 1963: § 123-42-1.

**22-44-202. Legislative declaration.** It is the purpose of this part 2 to develop for the public schools a program-oriented budget format which will relate anticipated costs and actual costs to designated programs.

**Source:** L. 73: R&RE, p. 1298, § 1. C.R.S. 1963: § 123-42-2.

**22-44-203. Adoption and compatibility of handbook.** (1) The state board of education shall have the authority to adopt a financial policies and procedures handbook that will meet the needs of the existing statutes and of such other rules and regulations as may be necessary to fulfill the intent of this part 2.

(2) Repealed.

**Source:** L. 73: R&RE, p. 1298, § 1. C.R.S. 1963: § 123-42-3. L. 81: (2) amended, p. 2026, § 24, effective July 14. L. 97: (2) amended, p. 461, § 9, effective August 6. L. 2009: (2) repealed, (SB 09-163), ch. 293, p. 1544, § 50, effective May 21.

**22-44-204. Use of handbook by school districts.**

(1) and (2) Repealed.

(3) The financial policies and procedures handbook adopted by the state board of education shall be used by every school district in this state in the development of the budget for the district, in the keeping of financial records of the district, and in the periodic presentation of financial information to the board of education of the district.

**Source:** L. 73: R&RE, p. 1298, § 1. C.R.S. 1963: § 123-42-4. L. 88: (3) amended, p. 815, § 21, effective May 24. L. 2006: (1) and (2) repealed, p. 610, § 36, effective August 7.

**22-44-205. Reports. (Repealed)**

**Source:** L. 73: R&RE, p. 1299, § 1. C.R.S. 1963: § 123-42-5. L. 81: Entire section amended, p. 1074, § 1, effective May 18. L. 88: Entire section repealed, p. 824, § 39, effective May 24.

**22-44-206. Administration.** This part 2 shall be administered by the state board of education. The state board of education has the authority to adopt reasonable rules and regulations for the administration of this part 2.

**Source:** L. 73: R&RE, p. 1299, § 1. C.R.S. 1963: § 123-42-6.

## PART 3

## PUBLIC SCHOOL FINANCIAL TRANSPARENCY ACT

**22-44-301. Short title.** This part 3 shall be known and may be cited as the “Public School Financial Transparency Act”.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 267, § 1, effective April 12.

**22-44-302. Legislative declaration.** The general assembly finds that members of the public, as taxpayers and parents, have a strong interest in how public moneys are expended in Colorado in the pursuit of a quality education for all of Colorado’s public school students. The general assembly further finds that educators and administrators, as education innovators and stewards of these public moneys, are eager to learn from one another and evaluate best practices that may result in efficiencies and potential cost savings for their schools. While achieving these important ends through the statewide dissemination of public school financial information may have been cumbersome in the past, new technologies and the ease with which the public can access electronic information now make greater transparency in public school finances not only important but practical. Therefore, it is the intent of the general assembly to ensure public access to public school financial information through the adoption of the “Public School Financial Transparency Act”, which directs public schools to post financial information on-line, in a downloadable format, for free public access.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 267, § 1, effective April 12.

**22-44-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) “Department” means the department of education created and operating pursuant to section 24-1-115, C.R.S.

(2) “Local education provider” means:

- (a) A school district, other than a junior college district, organized and existing pursuant to law;
- (b) A board of cooperative services created pursuant to article 5 of this title;
- (c) The state charter school institute established pursuant to section 22-30.5-503;
- (d) A district charter school authorized pursuant to part 1 of article 30.5 of this title; or
- (e) An institute charter school authorized pursuant to part 5 of article 30.5 of this title.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 268, § 1, effective April 12.

**22-44-304. Financial reporting - on-line access to information.** (1) (a) Commencing July 1, 2010, and on a continuing basis thereafter, each local education provider shall post the following information on-line, in a downloadable format, for free public access:

(I) The local education provider’s annual budget, adopted pursuant to section 22-44-110 (4), commencing with the budget for the 2009-10 budget year;

(II) The local education provider’s annual audited financial statements, prepared pursuant to section 22-32-109 (1) (k), commencing with the audits prepared for the 2009-10 budget year;

(III) The local education provider’s quarterly financial statements, at a minimum, prepared pursuant to section 22-45-102, commencing with the statements for the 2010-11 budget year; and

(IV) The local education provider’s salary schedules or policies, adopted pursuant to sections 22-32-109.4 and 22-63-401, commencing with those applicable to the 2010-11 budget year.



(b) Additionally, commencing July 1, 2011, each local education provider shall post accounts payable check registers and credit, debit, and purchase card statements on-line, in a downloadable format, for free public access.

(c) Additionally, commencing July 1, 2012, each local education provider shall post investment performance reports or statements on-line, in a downloadable format, for free public access.

(2) Nothing in this section shall direct or require a local education provider to post on-line, pursuant to subsection (1) of this section, personal information relating to payroll, including but not limited to payroll deductions or contributions, or any other information that is confidential or otherwise protected from public disclosure pursuant to state or federal law.

(3) (a) Each local education provider shall update the information specified in subsection (1) of this section within sixty days after the local education provider's completion or receipt of the applicable report, statement, or document.

(b) A local education provider shall maintain the prior two budget years' financial information on-line, in a downloadable format, for free public access, until the end of the local education provider's current budget year.

(4) No later than July 1, 2010, the financial policies and procedures advisory committee of the department shall create a template for voluntary use by local education providers needing assistance with the on-line posting of the information specified in subsection (1) of this section. The template may include both the type of electronic file posted as well as the information to be included in the posting. The committee may take into consideration any existing templates or reports developed by the department for purposes of financial reporting.

(5) In addition to the information required in subsection (1) of this section, a local education provider shall provide a link to the department's web site or the location information for the department's web site where a member of the public may access information or reports that are submitted directly to the department.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 268, § 1, effective April 12.

ARTICLE 45

Accounting and Reporting

22-45-101.	Definitions.	22-45-108.	Report of county treasurer.
22-45-102.	Accounts.	22-45-109.	Financial statements - publication. (Repealed)
22-45-103.	Funds.	22-45-110.	Violation - malfeasance.
22-45-103.5.	Legislative declaration - construction of statute - no impairment of contract.	22-45-111.	Junior college districts - powers.
22-45-104.	Fees - fines - disposition.	22-45-112.	Sale of assets.
22-45-105.	Moneys from school activities. (Repealed)	22-45-112.5.	Sale of certificates of participation - use of proceeds. (Repealed)
22-45-106.	Food-service or lunchroom account. (Repealed)	22-45-113.	Validation - effect - limitations.
22-45-107.	Audit of certain moneys. (Repealed)		

**22-45-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(2) "Capital outlay expenditures" means those expenditures that result in the acquisition of fixed assets or additions to fixed assets that the board anticipates will have benefits for more than one year. They are expenditures, whether by purchase or lease, for land or existing buildings, improvements of grounds, construction of buildings, additions to buildings, software licensing agreements, or initial, additional, or replacement equipment.

Equipment shall include, but not be limited to, those items set forth in the financial policies and procedures handbook authorized in section 22-44-203.

(2.2) “Eligible elector” means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(2.3) “Instructional capital outlay” includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have benefits for more than one year.

(2.5) “Instructional supplies and materials” includes, but is not limited to, supplies, textbooks, library books, periodicals, warehouse inventory adjustment, and other supplies and materials.

(3) “School district” or “district” means a school district or a junior college district organized and existing pursuant to law.

**Source:** L. 64: p. 627, § 1. C.R.S. 1963: § 123-33-1. L. 65: p. 1025, § 1. L. 83: (2) amended, p. 751, § 5, effective July 1. L. 88: (2.3) and (2.5) added, p. 815, § 22, effective May 24. L. 92: (2.2) added, p. 840, § 37, effective January 1, 1993. L. 2000: (2) amended, p. 520, § 4, effective August 2.

**22-45-102. Accounts.** (1) (a) Each school district shall use the full accrual basis of accounting when budgeting and accounting for any enterprise funds included in the district budget. The board of education of each school district shall cause financial records to be kept in accordance with generally accepted principles of governmental accounting. The financial transactions of the school district shall be recorded in general, appropriation, revenue, and expenditure records. Appropriate entries from the adopted budget shall be made in the records for the respective funds. Separate accounts shall be maintained for each of the several funds prescribed by this article. Continuing balances of the various budgetary accounts shall be maintained on at least a monthly basis.

(b) The board of education of each school district shall review the financial condition of said school district at least quarterly during the fiscal year. The board shall require the secretary, treasurer, or any employee who has duties which relate to the fiscal affairs of said school district to submit a financial report covering the fiscal actions involving the general fund, and other funds that the board may request, at least quarterly. At a minimum, the report shall include:

(I) The actual amounts spent and received as of the date of the report from each of the several funds budgeted by the district for the fiscal year, expressed as dollar amounts and as percentages of the annual budget;

(II) The actual amounts spent and received for each fund for the same period in the preceding fiscal year, expressed as dollar amounts and as percentages of the annual budget;

(III) The expected year-end fund balances, expressed as dollar amounts and as percentages of the annual budget; and

(IV) A comparison of the expected year-end fund balances with the amount budgeted for that fiscal year.

(2) All records shall be maintained at the principal administrative offices of the school district. Accounts shall be posted and reconciled with fund resources at least monthly. Records shall be open for public inspection during reasonable business hours. The state board of education shall prescribe the minimum accounts to be maintained under the provisions of this article.

**Source:** L. 64: p. 627, § 2. C.R.S. 1963: § 123-33-2. L. 2003: (1) amended, p. 1284, § 4, effective July 1.

**22-45-103. Funds.** (1) The following funds are created for each school district for purposes specified in this article:

(a) **General fund.** (I) All revenues, except those revenues attributable to the bond redemption fund, the capital reserve fund, the special building and technology fund, a fund



created solely for the management of risk-related activities, and any other fund authorized by this section or by the state board of education, as provided in subsection (2) of this section, shall be accounted for in the general fund. Any lawful expenditure of the school district, including any expenditure of a nature that could be made from any fund, may be made from the general fund. All expenditures from the general fund shall be recorded therein.

(II) Moneys allocated pursuant to the provisions of section 22-54-105 (1) shall be recorded in the instructional supplies and materials account, the instructional capital outlay account, and the other instructional purposes account in the general fund. Expenditures from the instructional supplies and materials account shall be limited to instructional supplies and materials, expenditures from the instructional capital outlay account shall be limited to instructional capital outlay, and expenditures from the other instructional purposes account shall be limited to other instructional purposes. Moneys in such accounts may not be expended for any other purpose. Moneys may be transferred among the three accounts but may not be transferred to any other account in the general fund or to any other fund of the school district. Any moneys in such accounts which are not projected to be expended during a budget year shall be budgeted for the purposes set forth in this subparagraph (II) in the next budget year. Nothing in this subparagraph (II) shall be construed to require that interest on moneys in such accounts be specifically allocated to such accounts.

(III) Repealed.

(IV) Moneys collected pursuant to section 22-32-109.8 (9) shall be credited to the fingerprint processing account. Moneys in said account shall be used for the purposes set forth in section 22-32-109.8 and may not be expended by the district for any other purpose; however, moneys in said account shall not be used for the purposes of section 22-32-109.8 (6). Any moneys in said account which are not expended during a budget year shall be carried forward and budgeted for the purposes set forth in section 22-32-109.8 in the next budget year.

(V) The revenues from a tax levied pursuant to section 22-40-109 shall be credited to the school facilities account. Moneys in said account shall be used for the purposes set forth in section 22-40-109 and may not be expended by the district for any other purpose. Any moneys remaining in the account at the end of any fiscal year shall remain in the account and may be budgeted in the next fiscal year.

(VI) Repealed.

(b) **Bond redemption fund.** (I) The revenues from a tax levy for the purpose of satisfying bonded indebtedness obligations, both principal and interest, shall be recorded in the bond redemption fund, which shall be administered by at least one third-party custodian designated by the school district as provided in subparagraph (V) of this paragraph (b), unless the school district meets one of the exceptions specified in subparagraph (VI) or (VII) of this paragraph (b). The bond redemption fund may include more than one subsidiary account for which a separate tax levy is made to satisfy the obligations of bonded indebtedness, including a separate tax levy to satisfy the obligations of bonded indebtedness incurred by a former school district. The revenues from each separate tax levy shall be held in trust for the purpose of satisfying the obligations of the bonded indebtedness for which the tax levy was made; except that revenues, if any, remaining to the credit of a separate subsidiary account after satisfaction of all such obligations of that subsidiary account may be transferred to another subsidiary account in the same fund.

(II) The revenues from a tax levy for the purpose of making payments for which the district is obligated under an installment purchase agreement or under a lease or rental agreement having a term of more than one year, which has been approved at an election pursuant to section 22-32-127 (2), for the purpose of obtaining the use of real property or equipment for school sites, buildings, or structures or for any school purpose authorized by law shall also be recorded in the bond redemption fund. Subsidiary accounts may be established if separate tax levies are made for different installment purchase agreements, or for different lease or rental agreements, and the revenues in such accounts may be expended and treated in the same manner as revenues from a tax levy to satisfy bonded indebtedness obligations.

(III) Nothing in subparagraph (II) of this paragraph (b) or in section 22-32-127 shall be construed to authorize a school district to make any levy for its bond redemption fund, or to use any moneys in its bond redemption fund, to make payments with regard to any installment purchase agreement or lease or rental agreement with an option to purchase which has not been approved at an election.

(IV) Moneys in the bond redemption fund shall be used only for the payment of principal and interest on obligations of the school district having a term greater than one year and approved at an election, which obligations constitute an indebtedness of the school district. Whenever the issuance of refunding bonds or other refunding obligations of the district results in moneys on deposit in the bond redemption fund which are not needed to satisfy the principal and interest obligations of the district as they become due, such moneys shall be used to reduce the levy for the bond redemption fund in future years or to pay any then existing obligations of the district payable from the bond redemption fund at a date earlier than they become due.

(V) Except as otherwise provided in subparagraph (VI) or (VII) of this paragraph (b), on or before July 1, 2003, each school district shall select at least one commercial bank or depository trust company that has full trust powers, is located within the state of Colorado, and is a member of the federal deposit insurance corporation to act as a third-party custodian to administer the school district's bond redemption fund. A school district may select multiple third-party custodians to administer the district's bond redemption fund, so long as each custodian selected meets the requirements for a custodian specified in this subparagraph (V). The custodian shall be responsible for making payments from the bond redemption fund as provided by law. The custodian, with the agreement of the school district, may withdraw any or all of the moneys in the bond redemption fund that are temporarily not needed to satisfy the school district's obligations, for purposes of depositing or investing the moneys in any investments permitted by law.

(VI) A school district is not required to designate a third-party custodian to administer the school district's bond redemption fund if the county treasurer keeps the funds and accounts of the school district as provided in section 22-40-104. A school district is not required to designate a third-party custodian to administer any portion of the school district's bond redemption fund that consists of revenues received from bonds or other obligations for which the school district has given notice to the state treasurer that it will not accept payment by the state treasurer on behalf of the school district as provided in section 22-41-110 (1) (a).

(VII) A school district is not required to select a commercial bank or depository trust company that has full trust powers to administer the school district's bond redemption fund if the school district places the funds in an escrow account with a financial institution eligible to receive public deposits, pursuant to escrow instructions which are acceptable to the state treasurer. At a minimum, the escrow instructions shall include provisions prohibiting payment or transfer of the funds to the school district without the state treasurer's prior written consent.

(c) **Capital reserve fund.** (I) Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be transferred from the general fund and recorded in the capital reserve fund along with the revenues received pursuant to section 39-5-132, C.R.S. Such revenues may be supplemented by gifts, grants, and donations. Unencumbered moneys in the fund may be transferred to a fund or an account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., by resolution of the board of education when such transfer is deemed necessary by the board; except that a local board of education may, in its discretion, transfer any unrestricted moneys into or out of the capital reserve fund in the 2009-10 budget year or any budget year thereafter. Nothing in this subparagraph (I) shall be construed to prohibit a local board of education from transferring unrestricted moneys from the general fund or any other fund to the capital reserve fund in the 2009-10 budget year or any budget year thereafter. Except as provided in subparagraph (V) of this paragraph (c), expenditures from the fund shall be limited to long-range capital outlay expenditures and shall be made only for the following purposes:



- (A) Any acquisition of land, improvements, construction of structures or addition to existing structures, and acquisition of equipment and furnishings;
- (B) and (C) (Deleted by amendment, L. 2000, p. 520, § 5, effective August 2, 2000.)
- (D) Alterations and improvements to existing structures;
- (E) Acquisition of a school vehicle, as defined in section 42-1-102 (88.5), C.R.S., or other equipment, except equipment specified in sub-subparagraph (H) of this subparagraph (I);
- (F) Any installment purchase agreements or lease agreements with an option to purchase for a period not to exceed twenty years and any lease agreement without the option to purchase entered into by a school district or a charter school;
- (G) Any software licensing agreement;
- (H) Acquisition of computer equipment.
- (II) Expenditures from the fund, other than for installment purchase agreements with an option to purchase, as provided in subparagraph (II.5) of this paragraph (c), shall be authorized by a resolution adopted by the board of education of a school district at any regular or special meeting of the board. The resolution shall specifically set forth the purpose of the expenditure, the estimated total cost of the project, the location of the structure to be constructed, added to, altered, or repaired, a description of any school vehicles or equipment to be purchased, and where such equipment will be installed.
- (II.5) A board of education may enter into an installment purchase agreement or lease agreement with option to purchase for a period exceeding one year and not to exceed twenty years for expenditures from the fund if the agreement is first approved by a majority of the eligible electors of the district voting on the question at an election held pursuant to this subparagraph (II.5). The board of education may submit to the eligible electors of the district the question of whether to enter into such an agreement at any general election, regular biennial school election, or special election called for such purpose. The secretary of the board of education shall be the designated election official and shall conduct the election pursuant to articles 1 to 13 of title 1, C.R.S. Any special election called pursuant to this subparagraph (II.5) shall be held on the first Tuesday after the first Monday in February, May, October, November, or December. The question of whether to enter into an installment agreement or lease agreement with option to purchase may be submitted or resubmitted after the same, or after any other such question, has previously been rejected at an election held pursuant to this subparagraph (II.5), but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of entering into such an agreement at more than two elections within any twelve-month period. The board of education of a school district may enter into an installment purchase agreement or lease agreement with option to purchase for a term not to exceed twenty years for the purposes provided for in sub-subparagraph (F) of subparagraph (I) of this paragraph (c). When authorized by the election as provided in this subparagraph (II.5), the agreement shall be valid, binding, and enforceable between the parties to the agreement. The provisions of this subparagraph (II.5) shall have no application to any installment purchase agreement or lease agreement with option to purchase, even though the term thereof may be greater than one year, if the district's obligation to make payments thereunder is expressly subject to the making of annual appropriations therefor in accordance with law. This subparagraph (II.5) shall have no application to any lease agreement with option to purchase for a period of one year or less, including lease agreements consisting of a series of one-year terms renewable at the option of the district.
- (III) Any balance remaining upon the completion of any authorized project may be encumbered for future projects which are authorized as provided in this paragraph (c).
- (IV) The revenues from a tax levied pursuant to section 22-40-110 shall be credited to the capital reserve fund. Moneys in said fund shall be used for the purposes set forth in section 22-40-110 and may not be expended by the district for any other purpose. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and may be budgeted in the next fiscal year.
- (V) Upon receipt from a school district of an accounting of any expenditures made or moneys encumbered for the purchase of new textbooks in the 2002-03 budget year,

including copies of invoices, contracts, or other documentation of the amount and purpose of the expenditures or encumbrances, the department of education may allow the school district to expend moneys from the district's capital reserve fund during the 2002-03 and 2003-04 budget years to offset the elimination of additional moneys that the district would have received in the 2002-03 budget year pursuant to section 22-54-105 (1) (b) (III) to purchase new textbooks; except that any expenditure of moneys from the fund made pursuant to this subparagraph (V) shall be limited to the amount of moneys the district has expended or encumbered as of January 31, 2003, for the purchase of new textbooks.

(d) **Special building and technology fund.** (I) The revenues from a tax levy for the purpose of acquiring, maintaining, or constructing schools or for the purchase and installation of instructional and informational technology shall be recorded in the special building and technology fund to remain in the custody of the treasurer of any district that has elected under law to withdraw its funds from the custody of the county treasurer or, in any other case, to the treasurer of the county in which the district is located and may be invested or deposited by such district or county treasurer pursuant to the provisions of sections 24-75-601.1, 24-75-602, and 24-75-603, C.R.S. Expenditures from the fund shall be limited to acquiring land; acquiring or constructing structures; maintaining structures to enhance their function, protect their value, and extend their economic life; and purchasing and installing instructional and informational technology, including expenditures for software and staff training related to the new technology.

(II) Expenditures from the fund shall be authorized by a resolution adopted by the board of education of a school district at any regular or special meeting of the board. The resolution shall specifically set forth the purpose of the expenditure, the estimated total cost of the project, and the location of the land to be acquired, the structure to be acquired or constructed, or the nature of the building security technology or instructional and informational technology to be acquired. Such resolution shall constitute authorization to the treasurer of any district that has elected under law to withdraw its funds from the custody of the county treasurer or, in any other case, to the treasurer of the county in which the district is located for application of the funds under his or her control to the specified expenditure.

(III) Any balance remaining upon the completion of any authorized project may be encumbered for future projects that are authorized as provided in this paragraph (d).

(IV) Any moneys in the fund that have not been authorized for expenditure within three years after being recorded in the fund shall revert to the capital reserve fund.

(e) **Risk management reserves.** Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be recorded in a fund or in an account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S. Unencumbered moneys in such fund or account may be transferred to the capital reserve fund or to any other fund or account established solely for the management of risk-related activities by resolution of the board of education when such transfer is deemed necessary by the board; except that a local board of education may, in its discretion, transfer any unrestricted moneys into or out of such fund or account in the 2009-10 budget year or any budget year thereafter. Expenditures from any such fund or account shall be limited to the purposes set forth in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S. Nothing in this paragraph (e) shall be construed to prohibit a local board of education from transferring unrestricted moneys from the general fund or any other fund to a fund or account for the management of risk-related activities in the 2009-10 budget year or any budget year thereafter.

(f) **Transportation fund.** The revenues from a tax levied or fee imposed for the purpose of paying excess transportation costs, as authorized pursuant to the provisions of section 22-40-102 (1.7) or the provisions of section 22-32-113 (5), and revenues received from the state pursuant to the provisions of section 22-51-102 (4) shall be deposited in the transportation fund of the district. Expenditures from the fund shall be limited to payment of transportation costs as authorized in the budget of the district. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall be used to reduce the levy for transportation costs in future years.



(g) Repealed.

(h) **Full-day kindergarten fund.** (I) The revenues from a tax levied pursuant to section 22-54-108.5 for the purpose of paying excess full-day kindergarten program costs shall be deposited in the full-day kindergarten fund of the district. Expenditures from the fund shall be limited to payment of excess full-day kindergarten program costs as authorized in the budget of the district. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall be used to reduce the levy for excess full-day kindergarten program costs in future years.

(II) The revenues from a tax levied pursuant to section 22-54-108.5 to meet the capital construction needs associated with a district's full-day kindergarten program shall be credited to the capital construction account in the district's full-day kindergarten fund. Moneys in the account shall be used to meet the district's capital construction needs associated with the full-day kindergarten program and may not be expended by the district for any other purpose. Any moneys remaining in the account at the end of any fiscal year shall remain in the account and may be budgeted in the next fiscal year.

(2) The state board of education may authorize by regulation additional funds not provided for in this section, together with proper accounting procedures for the same.

(3) Each school district shall ensure that the district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; except that a district may designate property owned by the district as all or a portion of the required reserve in accordance with section 22-44-105 (1) (c.5).

**Source:** L. 64: p. 628, § 3. C.R.S. 1963: § 123-33-3. L. 65: pp. 1025, 1026, §§ 2, 3. L. 73: pp. 1276, 1292, §§ 3, 1. L. 77: (1)(c)(I)(F) and (1)(c)(II.5) added and (1)(c)(II) amended, p. 1051, §§ 4, 5, effective June 10. L. 83: (1)(a) amended and (1)(d) added, p. 758, § 3, effective April 21; (1)(b)(II), IP(1)(c)(I), (1)(c)(I)(E), (1)(c)(I)(F), and (1)(c)(II.5) amended, p. 751, § 6, effective July 1. L. 85: (1)(b)(II) amended and (1)(b)(III) and (1)(b)(IV) added, p. 732, § 1, effective May 31; IP(1)(c)(I), (1)(c)(I)(A), and (1)(c)(I)(D) amended, p. 1226, effective January 1, 1986. L. 86: (1)(c)(II.5) amended, p. 813, § 5, effective July 1. L. 87: (1)(c)(II.5) amended, p. 317, § 55, effective July 1. L. 88: (1)(a), IP(1)(c)(I), (1)(c)(I)(E), and (1)(c)(II.5) amended and (1)(e) added, p. 815, § 23, effective May 24. L. 89: (1)(a)(II), IP(1)(c)(I), and (1)(e) amended and (1)(a)(III) added, pp. 966, 971, §§ 15, 21, 14, effective June 7. L. 90: (1)(a)(III)(A) amended, p. 1083, § 43, effective May 31; (1)(a)(IV) added, p. 1115, § 4, effective June 7. L. 91: (1)(f) added, p. 540, § 6, effective May 1. L. 92: (1)(a)(III)(A) amended and (1)(a)(V) added, p. 542, § 16, effective May 28; (1)(a)(II) amended, p. 520, § 2, effective July 1; (1)(c)(II.5) amended, p. 840, § 38, effective January 1, 1993. L. 93: (1)(a)(III) repealed and IP(1)(c)(I) and (1)(e) amended, pp. 891, 880, §§ 16, 3, effective May 6. L. 94: (1)(a)(II), IP(1)(c)(I), and (1)(e) amended, p. 819, § 39, effective April 27. L. 95: (1)(c)(I)(E) amended, p. 610, § 10, effective May 22; (1)(d)(I) amended, p. 1101, § 29, effective May 31. L. 97: (1)(a)(I), (1)(d)(I), and (1)(d)(II) amended, p. 74, § 1, effective March 24; (1)(a)(I), IP(1)(c)(I), and (1)(e) amended and (1)(a)(VI) added, pp. 584, 588, §§ 11, 22, effective April 30. L. 98: (1)(a)(VI) and (1)(c)(I)(E) amended, pp. 973, 974, §§ 18, 19, effective May 27. L. 2000: (1)(d)(I) and (1)(d)(II) amended, p. 254, § 1, effective March 31; (1)(c)(I)(A), (1)(c)(I)(B), (1)(c)(I)(C), and (1)(c)(I)(F) amended and (1)(c)(I)(G) added, p. 520, § 5, effective August 2; (1)(d) amended, p. 247, § 1, effective August 2. L. 2001: (1)(g) added, p. 558, § 2, effective May 23. L. 2002: (1)(c)(IV) added, p. 1746, § 19, effective June 7. L. 2003: IP(1)(c)(I) amended and (1)(c)(V) added, p. 516, § 4, effective March 5; (1)(b)(I) amended and (1)(b)(V) and (1)(b)(VI) added, p. 1295, § 1, effective April 22; (3) added, p. 1285, § 6, effective July 1. L. 2004: (1)(b)(I) and (1)(b)(V) amended and (1)(b)(VII) added, p. 424, § 1, effective August 4. L. 2006: (1)(c)(I)(E) and (1)(g) amended and (1)(c)(I)(H) added, pp. 676, 696, §§ 16, 41, effective April 28. L. 2007: (1)(a)(I) amended and (1)(h) added, p. 37, § 2, effective March 7. L. 2008: (1)(g) repealed, p. 1228, § 44, effective May 22. L. 2009: (1)(c)(I)(D), (1)(c)(I)(E), (1)(c)(I)(G), (1)(c)(I)(H), and (3) amended, (SB 09-256), ch. 294, pp. 1560, 1561, §§ 22, 23, effective May 21. L. 2010: (1)(c)(I)(E) and (1)(c)(II) amended, (HB 10-1232), ch. 163, p. 571, § 9, effective April 28; IP(1)(c)(I) and (1)(e) amended, (HB 10-1013), ch. 399, p. 1899, § 7, effective June 10.

**Editor's note:** (1) Amendments to subsection (1)(a)(I) by House Bill 97-1200 and House Bill 97-1249 were harmonized. Amendments to subsection (1)(d) by Senate Bill 00-039 and Senate Bill 00-098 were harmonized.

(2) Subsection (1)(a)(VI)(B) provided for the repeal of subsection (1)(a)(VI), effective July 1, 1998. (See L. 98, p. 973.)

(3) Section 22-54-105 (1)(b)(III) referenced in subsection (1)(c)(V) was repealed, effective July 1, 2003. (See L. 2001, p. 564.)

**Cross references:** For the legislative declaration contained in the 2008 act repealing subsection (1)(g), see section 1 of chapter 286, Session Laws of Colorado 2008.

### ANNOTATION

**Law reviews.** For article, "Property Tax Assessments in Colorado", see 12 Colo. Law. 563 (1983).

**Constitutionality of former school finance system.** Colorado's school finance system did

not violate § 2 of art. IX, Colo. Const., nor did it deny equal protection of the law. *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982) (decided under article 50 of this title prior to its repeal on January 1, 1989).

**22-45-103.5. Legislative declaration - construction of statute - no impairment of contract.** (1) The general assembly hereby finds and declares that a small number of school districts have entered into financing arrangements which contemplate that moneys in the districts' bond redemption fund may be used, or that a levy for the bond redemption fund may be made, to pay for capital projects which have not been authorized by the voters of the districts. In light of the long-standing view that the bond redemption fund is reserved for voter-approved projects, the general assembly finds that such financing arrangements are not in the interests of school district taxpayers and declares that its intent in enacting section 22-45-103 (1) (b) is to assure that such arrangements will not be entered into in the future.

(2) In recognition of the fact that some school districts have entered into financing arrangements which may not comply with the provisions of section 22-45-103 (1) (b), the general assembly declares that nothing in said section or in any other law shall be construed to impair any contract in existence on May 31, 1985, if said contract was validly entered into under the statutes in force at the time of entering said contract. Nothing in this section or in section 22-45-103 (1) (b) shall be construed to validate or to invalidate any financial arrangement entered into prior to May 31, 1985.

**Source: L. 85:** Entire section added, p. 733, § 2, effective May 31.

**22-45-104. Fees - fines - disposition.** All moneys collected from fees or fines fixed and imposed by the board of education of any school district shall be paid over to the treasurer of such board as received, or in no event later than the tenth day of the month following that in which collected, and shall be credited and deposited in the same manner as other moneys belonging to the district.

**Source: L. 64:** p. 629, § 4. **C.R.S. 1963:** § 123-33-4. **L. 75:** Entire section amended, p. 707, § 6, effective July 14.

**22-45-105. Moneys from school activities. (Repealed)**

**Source: L. 64:** p. 629, § 5. **C.R.S. 1963:** § 123-33-5. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.

**22-45-106. Food-service or lunchroom account. (Repealed)**

**Source: L. 64:** p. 630, § 6. **C.R.S. 1963:** § 123-33-6. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.



**22-45-107. Audit of certain moneys. (Repealed)**

**Source:** L. 64: p. 630, § 7. C.R.S. 1963: § 123-33-7. L. 75: Entire section repealed, p. 708, § 10, effective July 14.

**22-45-108. Report of county treasurer.** (1) The county treasurer shall, no later than the tenth day of each month, render a monthly itemized statement of account, on a form prescribed by the state board of education, to each school district in his county, and to each joint school district if the headquarters thereof are located in his county, in cases where the board of education of such school district or joint school district has elected, pursuant to law, to have school district moneys received by the county treasurer paid over to the treasurer of the district.

(2) Repealed.

**Source:** L. 64: p. 630, § 8. C.R.S. 1963: § 123-33-8. L. 88: (2) repealed, p. 824, § 39, effective May 24.

**22-45-109. Financial statements - publication. (Repealed)**

**Source:** L. 64: p. 631, § 9. C.R.S. 1963: § 123-33-9. L. 75: Entire section repealed, p. 708, § 10, effective July 14.

**22-45-110. Violation - malfeasance.** Any school director, officer, or employee of any school district who knowingly or willfully fails to perform any of the duties imposed upon him by this article is guilty of malfeasance in office and, upon conviction thereof, the court shall enter judgment that such director, officer, or employee so convicted shall be removed from office or his position of employment.

**Source:** L. 64: p. 631, § 10. C.R.S. 1963: § 123-33-10.

**22-45-111. Junior college districts - powers.** Nothing in this article shall be construed to restrict the power of any junior college district to pledge to the payment of revenue bonds all or part of the revenue of such district, other than revenues derived from ad valorem taxes of the district, pursuant to section 23-71-122 (1) (r), C.R.S.

**Source:** L. 64: p. 631, § 11. C.R.S. 1963: § 123-33-11. L. 76: Entire section amended, p. 304, § 36, effective May 20.

**22-45-112. Sale of assets.** (1) Except as authorized by subsection (2) or (3) of this section, if lands, buildings, or lands and buildings are sold by a school district, the proceeds, less the costs, of such sale shall be deposited in and expended from either the bond redemption fund or the capital reserve fund, or both such funds of the school district, as determined by the board of education. This provision shall apply also to the proceeds from any insurance which may accrue as a result of fire, explosion, or other casualty when such insurance proceeds cannot be used in an advantageous manner to repair the property to which the damage occurred.

(2) (a) Prior to July 1, 2005, a school district may sell land, buildings, or land and buildings and deposit in and expend from its general fund the proceeds, less costs, of the sale if:

(I) The board of education of the school district declares a fiscal shortfall emergency pursuant to paragraph (b) of this subsection (2);

(II) The school district sells the property to a lessor, including but not limited to the state treasurer pursuant to section 22-54-110 (2) (d), who, at the time of the sale, leases all of the property back to the district pursuant to a lease-purchase agreement that is subject to annual appropriation by the school district and has a term of no more than one year; and

(III) The state treasurer approves in writing the terms of the sale and lease-purchase agreements.

(b) A board of education of a school district may declare a fiscal shortfall emergency if:

(I) The district either:

(A) Is denied a loan by the state treasurer pursuant to section 22-54-110; or

(B) Notifies the state treasurer that the district is unable to repay a loan obtained pursuant to section 22-54-110 in the same state fiscal year that the loan was made;

(II) The board of education of the school district holds at least one public hearing, after full and timely notice to the public, on the existence of a fiscal shortfall emergency; and

(III) At a public meeting held after the hearing held pursuant to subparagraph (II) of this paragraph (b), at least two-thirds of the members of the board of education of the school district approve a resolution declaring the fiscal shortfall emergency.

(3) The proceeds, less the costs, of the sale of lands, buildings, or lands and buildings that are sold by a school district may be applied, in the discretion of the board of education, to pension liabilities of the district or to make payments to the public employees' retirement association of Colorado or to the refinancing of any transaction entered into for such purposes. Notwithstanding any other provision of law, any such proceeds that are held in a separate account to secure the school district's obligation to make payments to the association may be invested by the district in any investment in which moneys of the association may be invested.

**Source:** L. 69: p. 1037, § 1. C.R.S. 1963: § 123-33-12. L. 2003: Entire section amended, p. 1286, § 1, effective April 22. L. 2005: (1) amended and (3) added, p. 527, § 3, effective May 24. L. 2009: (3) amended, (SB 09-282), ch. 288, p. 1399, § 64, effective January 1, 2010.

#### **22-45-112.5. Sale of certificates of participation - use of proceeds. (Repealed)**

**Source:** L. 96: Entire section added, p. 1800, § 25, effective June 4. L. 98: Entire section repealed, p. 974, § 20, effective May 27.

**22-45-113. Validation - effect - limitations.** (1) All bonds issued and other contracts, leases, or agreements executed by school districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 22-45-103 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply such legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

**Source:** L. 73: p. 1277, § 6. C.R.S. 1963: § 123-33-13.



FINANCING OF SCHOOLS

ARTICLE 50

Public School Finance Act of 1973

22-50-101 to 22-50-120. (Repealed)

**Editor’s note:** (1) This article was numbered as article 44 of chapter 123 in C.R.S. 1973. For amendments to this article prior to its repeal in 1989, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-50-120 provided for the repeal of this article, effective January 1, 1989. (See L. 1988, p. 808.)

ARTICLE 51

Public School Transportation Fund

**Editor’s note:** This article was numbered as article 10 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1975, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

22-51-101.	Legislative declaration.		by state treasurer - deficiency in fund.
22-51-102.	Definitions.		
22-51-103.	Creation of the public school transportation fund.	22-51-107.	Requirements for participation.
22-51-104.	Methods of determining reimbursement entitlement.	22-51-108.	Rules.
22-51-105.	Certifications by school boards, governing boards, and facility schools - rules.	22-51-109.	County treasurers’ fees.
		22-51-110.	Effective date. (Repealed)
22-51-106.	Certification to and payment	22-51-111.	Study of alternative transportation services. (Repealed)

**22-51-101. Legislative declaration.** It is declared to be the policy of this state to furnish financial aid to school districts and the state charter school institute of the state for the transportation of pupils to and from their places of residence and the public schools which they attend, including transportation for purposes of special education and vocational education, and for board in lieu of transportation. It is further declared to be the policy of this state to furnish aid to facility schools for the transportation of pupils in facilities to and from the facilities in which they reside and the facilities in which they receive educational services.

**Source:** L. 75: Entire article R&RE, p. 714, § 1, effective July 14. L. 88: Entire section amended, p. 773, § 1, effective May 29. L. 2004: Entire section amended, p. 1587, § 16, effective June 3. L. 2008: Entire section amended, p. 1401, § 45, effective May 27.

**Editor’s note:** This section is similar to former § 22-51-101 as it existed prior to 1975.

**22-51-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) (a) “Current operating expenditures for pupil transportation” means expenditures for providing pupil transportation, exclusive of purchase or lease of pupil transportation vehicles or other capital outlays. The term includes expenditures for the following: Motor fuel and oil; maintenance and repair of vehicles (including additions to and alterations of pupil transportation vehicles built since 1977 that will increase efficiency and safety or that

are necessary to meet current minimum standards), equipment, and facilities; costs of employment for drivers while employed in pupil transportation; costs of employment paid specifically for providing transportation supervision and support services; insurance; contracted services; reimbursements to pupils who utilize public transportation services; and, for entitlement periods ending on June 30, 1989, and thereafter, amounts spent for pupil transportation for special education and vocational education programs.

(b) "Current operating expenditures for pupil transportation" shall not be reduced by revenues received by a school district or the state charter school institute from fees imposed and collected for pupil transportation pursuant to a resolution adopted by the board of education of such district in accordance with the provisions of section 22-32-113 (5) or by the state charter school institute board.

(2) "Entitlement period" means the twelve-month period ending June 30 of each year.

(2.5) "Facility" means any of the following facilities that operates a facility school:

(a) A day treatment center, residential child care facility, or other facility licensed by the department of human services pursuant to section 26-6-104, C.R.S.;

(b) A hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S.

(2.7) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(3) "Pupil transportation" means:

(a) The transportation of pupils regularly enrolled in the public schools through grade twelve to and from their places of residence and the public schools in which enrolled, including any site attended for special education or vocational education, and to and from one school of attendance and another in vehicles owned or rented and operated by a school district or state charter school or under contract with a school district or state charter school; and

(b) The transportation of students who are receiving educational services from facility schools to and from the facility in which the students reside and the place at which the students receive the educational services.

(4) "Reimbursement entitlement" means the amount of reimbursement to which a school district, a state charter school, or a facility school is entitled under the provisions of section 22-51-104.

(5) "State charter school institute" or "institute" means the state charter school institute created pursuant to part 5 of article 30.5 of this title.

**Source: L. 75:** Entire article R&RE, p. 714, § 1, effective July 14. **L. 81:** (1) amended, p. 1077, § 1, effective July 1. **L. 88:** (1) to (3) amended, p. 773, § 2, effective May 29. **L. 91:** (1) amended, p. 537, § 1, effective May 1. **L. 2004:** (1)(b), (3), and (4) amended and (5) added, p. 1587, § 17, effective June 3. **L. 2008:** (2.5) and (2.7) added and (3) and (4) amended, p. 1401, § 46, effective May 27.

**22-51-103. Creation of the public school transportation fund.** (1) There is hereby created, in the office of the state treasurer, a fund to be known as the public school transportation fund, to which shall be credited such moneys as may be appropriated by the general assembly for the purposes of this article, excluding moneys appropriated as a lump sum for reimbursement for pupil transportation in a school district subject to a court-ordered desegregation order, and which shall be held by the state treasurer and paid out as provided in this article. Any unexpended or unencumbered moneys remaining in the fund at the end of any budget year shall remain in the fund and shall not be transferred to the state general fund or any other fund.

(2) For the 2006-07 budget year and each budget year thereafter, the net amount recovered by the department of education during the applicable budget year pursuant to section 22-51-105 as overpayments made to school districts, the state charter school institute, and facility schools shall be transferred to the state treasurer for deposit in the public school transportation fund. Such amount shall be available for appropriation to the department in the budget year in which the transfers are made or in subsequent budget years.



(3) Any appropriation made from the public school transportation fund from moneys deposited in the fund pursuant to subsection (2) of this section shall not be included in the calculation of total state funding for all categorical programs as defined in section 22-55-102 (19).

**Source:** **L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 96:** Entire section amended, p. 1794, § 8, effective June 4. **L. 2006:** Entire section amended, p. 677, § 17, effective April 28. **L. 2007:** (2) amended and (3) added, p. 1827, § 1, effective June 1. **L. 2008:** (2) amended, p. 1402, § 47, effective May 27.

**Editor's note:** This section is similar to former § 22-51-102 as it existed prior to 1975.

**22-51-104. Methods of determining reimbursement entitlement.** (1) Except as otherwise provided in subsection (1.5) of this section, for financial aid in providing pupil transportation, for entitlement periods ending on June 30, 1988, and thereafter, each school district, the state charter school institute, and each facility school shall have a reimbursement entitlement in an amount determined as follows:

(a) Thirty-seven and eighty-seven one-hundredths cents for each mile traveled by vehicles operated by or for the school district, the institute, or the facility school in providing pupil transportation during the entitlement period. The number of miles traveled shall be determined by the state board of education based upon information submitted pursuant to section 22-51-105.

(b) Thirty-three and eighty-seven one-hundredths percent of any amount by which the school district's, the institute's, or the facility school's current operating expenditures for pupil transportation during the entitlement period exceeded the school district's, institute's, or facility school's reimbursement entitlement under the provisions of paragraph (a) of this subsection (1); and

(c) Not more than sixty percent of the costs of contracts entered into by a school district pursuant to section 22-32-110 (1) (w) or entered into by the state charter school institute or a facility school for the purpose of conserving fuel or reducing operating or capital expenditures, or both, for pupil transportation under public transportation programs which comply with the code of federal regulations, title 49, parts 390 to 397, or successor regulations thereto. Reimbursement entitlements under this paragraph (c) shall not be greater than those the school district, the institute, or the facility school would otherwise receive if it operated its own vehicles or contracted for the exclusive transportation of pupils.

(1.5) (a) Repealed.

(b) Notwithstanding the provisions of subsection (1) of this section, for entitlement periods ending on June 30, 1989, and thereafter, a school district, the state charter school institute, and a facility school shall not receive a reimbursement entitlement in an amount which is less than its reimbursement entitlement for the preceding entitlement period. For purposes of this paragraph (b), the reimbursement entitlement for the preceding entitlement period shall be the amount to which the school district, the institute, or the facility school would have been entitled under the formula in subsection (1) of this section, and not the amount it actually received for the preceding entitlement period, if different from the amount under said formula.

(2) In no event shall the reimbursement entitlement of a school district, the institute, or a facility school under the provisions of subsection (1) of this section for any entitlement period exceed ninety percent of the total amount expended by the school district, the institute, or the facility school during said entitlement period for current operating expenditures for pupil transportation.

(3) For financial aid in providing board allowances in lieu of transportation, each school district and the institute shall have a reimbursement entitlement for an entitlement period for each pupil who is temporarily residing during said entitlement period for the purpose of attending school at a place nearer the school of attendance than the student's permanent

residence, and for whom the district or the institute has paid a board allowance in lieu of furnishing transportation, in the amount of one dollar for each day such board was paid by the district or the institute.

**Source:** **L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 80:** (1) amended, p. 559, § 6, effective May 1; (1)(c) added, p. 562, § 1, effective July 1. **L. 88:** IP(1), (1)(a), and (1)(b) amended and (1.5) added, p. 774, § 3, effective May 29; (1.5)(a) repealed, p. 774, § 3, effective November 1. **L. 94:** (2) amended, p. 809, § 15, effective April 27; (2) amended, p. 1282, § 5, effective May 22. **L. 95:** (2) amended, p. 611, § 11, effective May 22. **L. 2004:** Entire section amended, p. 1588, § 18, effective June 3. **L. 2008:** (1), (1.5), and (2) amended, p. 1402, § 48, effective May 27.

**Editor's note:** This section is similar to former § 22-51-103 as it existed prior to 1975.

**22-51-105. Certifications by school boards, governing boards, and facility schools - rules.** (1) On or before August 15 of each year, the school board of each school district entitled to and desiring reimbursement under this article, the state charter school institute board, and each facility school entitled to and desiring reimbursement under this article shall certify to the state board of education, on forms to be provided by the commissioner of education, such information as the board shall deem necessary to determine the reimbursement entitlement of the district, the institute, or the facility school including, but not limited to, the total amount of the school district's, the institute's, or the facility school's current operating expenditures for pupil transportation during the preceding entitlement period, the total number of miles traveled and the total number of pupils transported on October 1, or the school day nearest said date, during the preceding entitlement period by vehicles operated by or for the school district, the institute, or the facility school in providing pupil transportation, and the transportation route descriptions in effect on said date.

(2) The department of education shall promulgate rules to allow for verification of the accuracy and appropriateness of the route mileages submitted by school districts, the institute, and facility schools pursuant to subsection (1) of this section. If the department determines that an overpayment has been made due to the submission of inaccurate or inappropriate route mileages, the department shall recover from the school district, the institute, or the facility school an amount equal to the overpayment plus a penalty of not more than twenty percent of the overpayment.

**Source:** **L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 88:** Entire section R&RE, p. 775, § 4, effective May 29. **L. 2004:** Entire section amended, p. 1589, § 19, effective June 3. **L. 2008:** Entire section amended, p. 1403, § 49, effective May 27.

**Editor's note:** This section is similar to former § 22-51-104 as it existed prior to 1975.

**22-51-106. Certification to and payment by state treasurer - deficiency in fund.** (1) (a) On or before October 15 of each year, the commissioner of education shall certify to the state treasurer the amount of the advance reimbursement entitlement of each school district, the state charter school institute, and each facility school for the current entitlement period and the amount of the final reimbursement entitlement of each school district, the institute, and each facility school for the preceding entitlement period. The state treasurer shall thereupon pay from the public school transportation fund directly to the treasurer of each school district which has elected under the law to withdraw its funds from the custody of the county treasurer, directly to the treasurer of the state charter school institute, and directly to the treasurer of each facility school the amount certified as the total reimbursement entitlement of the school district, the institute, or the facility school; and, for all other school districts, the state treasurer shall pay to the county treasurer of the county in which each school district has its headquarters the amount certified as the total reimbursement



entitlement of each district, and the county treasurer shall forthwith credit to the general fund of each district in the county the amount certified therefor.

(b) For purposes of this section:

(I) "Advance reimbursement entitlement" means an amount that a school district, the state charter school institute, or a facility school is entitled to receive in the current entitlement period as an advance payment of its reimbursement entitlement for such period and which is equal to twenty percent of the reimbursement entitlement of the school district, the institute, or the facility school for the preceding entitlement period.

(II) "Final reimbursement entitlement" means the reimbursement entitlement of a school district, the state charter school institute, or a facility school for the preceding entitlement period less any advance reimbursement entitlement received by said district, the institute, or the facility school for said period.

(III) "Total reimbursement entitlement" means the advance reimbursement entitlement and the final reimbursement entitlement of a school district, the state charter school institute, or a facility school.

(2) (a) In the event the amount of money appropriated by the general assembly to the public school transportation fund is less than the amount of the total reimbursement entitlements of all of the school districts, of the state charter school institute, and of all of the facility schools authorized by this section, the amount to be distributed to each school district, the institute, and each facility school shall be in the same proportion as the amount which the appropriation made bears to the total amount of the reimbursement entitlements of all school districts, of the state charter school institute, and of all facility schools.

(b) For the entitlement period beginning on or after July 1, 1993, the calculation in paragraph (a) of this subsection (2) shall be based on the amount of money appropriated by the general assembly to the public school transportation fund. For the entitlement period beginning on or after July 1, 1993, any district subject to a court-ordered desegregation order shall be entitled to reimbursement of one million five hundred thousand dollars, subject to separate appropriation by the general assembly, for pupil transportation in addition to any amount received pursuant to paragraph (a) of this subsection (2).

**Source:** L. 75: Entire article R&RE, p. 716, § 1, effective July 14. L. 88: Entire section amended, p. 775, § 5, effective May 29. L. 95: (2) amended, p. 611, § 12, effective May 22. L. 96: (2)(b) amended, p. 1795, § 9, effective June 4. L. 2004: Entire section amended, p. 1589, § 20, effective June 3. L. 2008: (1) and (2)(a) amended, p. 1404, § 50, effective May 27.

**Editor's note:** This section is similar to former § 22-51-106 as it existed prior to 1975.

**22-51-107. Requirements for participation.** Unless otherwise authorized by the commissioner of education, a school district, the state charter school institute, or a facility school shall not be entitled to any reimbursement under this article if the school district, the institute, or the facility school has not filed the certifications required by section 22-51-105 on or before the date provided in said section or has not complied with the rules promulgated by the state board of education pursuant to section 22-51-108.

**Source:** L. 75: Entire article R&RE, p. 716, § 1, effective July 14. L. 2004: Entire section amended, p. 1590, § 21, effective June 3. L. 2008: Entire section amended, p. 1405, § 51, effective May 27.

**Editor's note:** This section is similar to former § 22-51-108 as it existed prior to 1975.

**22-51-108. Rules.** The state board of education shall promulgate rules for the administration of this article. Such rules shall include reasonable and adequate standards of safety in the maintenance and operation of buses, the maintenance of records by school districts, the state charter school institute, and facility schools, the length of bus routes, the number

of children to be transported in the various types of buses, and such other rules pertaining to pupil transportation as will promote the welfare of the students and afford reasonable protection to the public.

**Source:** **L. 75:** Entire article R&RE, p. 716, § 1, effective July 14. **L. 2004:** Entire section amended, p. 1590, § 22, effective June 3. **L. 2008:** Entire section amended, p. 1405, § 52, effective May 27.

**Editor’s note:** This section is similar to former § 22-51-109 as it existed prior to 1975.

**22-51-109. County treasurers’ fees.** No fees shall be charged by the county treasurers of the state for receiving or crediting funds of the school districts received under the provisions of this article.

**Source:** **L. 75:** Entire article R&RE, p. 717, § 1, effective July 14.

**22-51-110. Effective date. (Repealed)**

**Source:** **L. 75:** Entire article R&RE, p. 717, § 1, effective July 14. **L. 88:** Entire section repealed, p. 777, § 7, effective May 29.

**22-51-111. Study of alternative transportation services. (Repealed)**

**Source:** **L. 88:** Entire section added, p. 776, § 6, effective May 29. **L. 96:** Entire section repealed, p. 1239, § 89, effective August 7.

**SECOND CHANCE PROGRAM**

**ARTICLE 52**

**Second Chance Program  
for Problem Students**

22-52-101.	Legislative declaration.		education.
22-52-102.	Eligible students.	22-52-106.	Rules and regulations.
22-52-103.	Eligible schools.	22-52-107.	Funding of second chance
22-52-104.	Application - payment.		program.
22-52-105.	Duties of the department of	22-52-108.	Repeal of article. (Repealed)

**22-52-101. Legislative declaration.** The general assembly hereby declares that the problem of children who do not succeed in the educational system is of grave concern. It is the intent of the general assembly that this article give these children a second chance by providing a variety of educational opportunities for such children, opportunities for educators to use their skills, talent, and creativity, and increased parental involvement in the education process.

**Source:** **L. 85:** Entire article added, p. 722, § 3, effective July 1.

**22-52-102. Eligible students.** (1) In order to be eligible to participate in the second chance program, a child shall be a dropout between seventeen and twenty-one years of age who has been recommended for participation in the program by his or her school district of residence with the concurrence of the child, the child’s parent, and the receiving district; but no such child shall be eligible to participate in the second chance program if he or she has achieved a high school diploma or its equivalent.

(2) Once enrolled in the program, a student who makes satisfactory progress may continue in the program until he obtains a high school diploma or its equivalent or until he



reaches twenty-one years of age. A student who does not progress satisfactorily may be dropped from the program but shall be eligible to reapply until he reaches twenty years of age.

**Source: L. 85:** Entire article added, p. 722, § 3, effective July 1. **L. 2006:** (1) amended, p. 1213, § 7, effective July 1, 2007.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (1), see section 1 of chapter 265, Session Laws of Colorado 2006.

**22-52-103. Eligible schools.** (1) Any of the following schools are eligible to apply to the department of education to participate in the second chance program:

(a) Public schools located in school districts that have a dropout rate above the statewide average dropout rate;

(b) Public schools in districts contiguous to districts specified in paragraph (a) of this subsection (1);

(c) Public schools offering vocational, technical, or adult education programs;

(d) Schools operated by boards of cooperative services;

(e) A community college.

(2) As a condition of continued participation in the second chance program, an eligible school shall provide to the school district in which it is located an accurate monthly report on each eligible student's attendance and performance.

**Source: L. 85:** Entire article added, p. 722, § 3, effective July 1. **L. 2006:** (1)(e) added, p. 610, § 37, effective August 7.

**22-52-104. Application - payment.** (1) After July 1, 1986, and each school year thereafter, an eligible student may apply to the school board of his school district of residence to participate in the second chance program. Application and acceptance procedures shall be governed by rules and regulations promulgated by the state board of education. The school district of residence shall process an eligible student's application, assist the student in enrolling in the eligible school, counsel the students and parents of students in the second chance program concerning the availability of services the child or family may need, and monitor the performance and progress of each student in the second chance program.

(2) (a) The school district of residence of a student enrolled in the second chance program shall count the student in its pupil enrollment pursuant to rules and regulations promulgated by the state board of education. The school district shall also provide to the department of education such information as it may require.

(b) (I) (A) Repealed.

(B) Effective January 1, 1989, pursuant to rules and regulations promulgated by the state board of education, the school district of residence of the student shall transmit monthly eighty-five percent of the district of residence's per pupil revenues, as defined in section 22-54-103 (9.3) to the school district or eligible school enrolling the student or the actual educational cost of the program provided, whichever is less.

(II) Repealed.

(3) The duties of the school district of residence of the eligible student specified in subsection (1) of this section may be developed under contract with boards of cooperative services in districts with eligible participating students and eligible participating schools. School districts which are not in boards of cooperative services may contract with such boards for cooperative programming.

**Source: L. 85:** Entire article added, p. 723, § 3, effective July 1. **L. 88:** (2)(b)(I)(A) repealed, p. 818, § 24, effective January 1, 1989. **L. 94:** (2)(b)(I)(B) amended, p. 820, § 40, effective April 27. **L. 2006:** (2)(b)(II) repealed, p. 610, § 38, effective August 7. **L. 2010:** (2)(b)(I)(B) amended, (HB 10-1013), ch. 399, p. 1914, § 41, effective June 10.

**22-52-105. Duties of the department of education.** (1) The department of education shall have the following duties regarding the second chance program:

- (a) To notify all school districts of the procedures to be followed in processing applications from eligible students;
- (b) To gather information on participating schools and advertise the program to potentially eligible students and their parents;
- (c) To receive enrollment information and audit the students and schools participating in the program;
- (d) To provide assistance as requested to participating school districts, schools, students, and parents;
- (e) To hear appeals of disputes arising between participating school districts, schools, students, and parents.
- (f) Repealed.

**Source:** L. 85: Entire article added, p. 723, § 3, effective July 1. L. 96: (1)(f) repealed, p. 1239, § 88, effective August 7.

**22-52-106. Rules and regulations.** (1) The state board of education shall promulgate such rules and regulations as are necessary to implement this article, pursuant to section 24-4-103, C.R.S. Such rules and regulations shall include, but shall not be limited to, the following:

- (a) Student eligibility criteria considering the special characteristics of the student, the educational record of the student to the time of application, and, if the student is enrolled in a public school program, the opportunities available to the student within that setting;
- (b) Criteria for eligible schools emphasizing experimental approaches such as a career development curriculum and experiential education;
- (c) Procedures for application by eligible schools and for selecting schools to participate in the second chance program;
- (d) Procedures for coordinating eligible participating students and eligible participating schools, including procedures to establish a lottery system when the number of applicants for an eligible school exceeds the available space;
- (e) Procedures for notifying the department of education and the student's school district of residence should the student stop attending or fail to make satisfactory progress;
- (f) Procedures for resolving disputes arising between school districts, schools, students, and parents consistent with article 4 of title 24, C.R.S.; and
- (g) Financial transactions.

**Source:** L. 85: Entire article added, p. 724, § 3, effective July 1.

**22-52-107. Funding of second chance program.** It is the intent of the general assembly that, after the initial appropriation made to the department of education for the fiscal year beginning July 1, 1985, the responsibilities and duties specified in this article shall be performed by the department of education and the participating school districts through the funding available pursuant to the "Public School Finance Act of 1994", article 54 of this title.

**Source:** L. 85: Entire article added, p. 724, § 3, effective July 1. L. 88: Entire section amended, p. 818, § 25, effective January 1, 1989. L. 94: Entire section amended, p. 820, § 41, effective April 27.

**22-52-108. Repeal of article. (Repealed)**

**Source:** L. 85: Entire article added, p. 724, § 3, effective July 1. L. 88: Entire section repealed, p. 837, § 7, effective June 20.



**FINANCING OF SCHOOLS - Continued****ARTICLE 53****Public School Finance Act of 1988****22-53-101 to 22-53-605. (Repealed)**

**Source: L. 97:** Entire article repealed, p. 463, § 16, effective August 6.

**Editor's note:** (1) This article was added in 1988. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Provisions of part 1 of this article were relocated to article 54 of this title in 1994. Provisions of parts 2 to 4 and 6 were relocated to article 7 of this title in 1997.

**ARTICLE 54****Public School Finance Act of 1994**

**Editor's note:** This article was added with relocations in 1994 containing provisions of some sections formerly located in part 1 of article 53 of this title. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For comment, "Colorado Public School Financing: Constitutional Issues", see 59 U. Colo. L. Rev. 149 (1988).

22-54-101.	Short title.	22-54-109.	Attendance in district other than district of residence.
22-54-102.	Legislative declaration - state-wide applicability - inter-governmental agreements.	22-54-110.	Loans to alleviate cash flow deficits - lease-purchase agreements.
22-54-103.	Definitions.	22-54-111.	Adjustments in valuation for assessment.
22-54-104.	District total program.	22-54-112.	Reports to the state board.
22-54-104.1.	General fund appropriations requirements - maintenance of effort base.	22-54-113.	County public school fund.
22-54-104.2.	Legislative declaration.	22-54-114.	State public school fund.
22-54-104.3.	Total program for budget years - special provisions.	22-54-115.	Distribution from state public school fund.
22-54-104.5.	School finance study. (Repealed)	22-54-116.	Notice to taxpayers - assistance by department of education.
22-54-105.	Instructional supplies and materials - capital reserve and insurance reserve - at-risk funding - preschool funding.	22-54-117.	Contingency reserve - capital construction expenditures reserve - fund - lottery proceeds contingency reserve.
22-54-106.	Local and state shares of district total program.	22-54-118.	Joint districts.
22-54-106.5.	Fiscal emergency restricted reserve - calculation of reserve amount.	22-54-119.	General provisions.
22-54-107.	Buy-out of categorical programs.	22-54-120.	Rules and regulations.
22-54-107.5.	Authorization of additional local revenues for supplemental cost of living adjustment.	22-54-121.	Funding for statewide assessment program. (Repealed)
22-54-108.	Authorization of additional local revenues.	22-54-122.	Small attendance center aid.
22-54-108.5.	Authorization of additional local revenues for full-day kindergarten - definitions.	22-54-123.	National school lunch act - appropriation of state matching funds.
		22-54-123.5.	School breakfast program - appropriation - low-performing schools.
		22-54-124.	State aid for charter schools - use of state education fund moneys - definitions.

22-54-125.	Increasing enrollment district aid. (Repealed)	22-54-131.	Full-day kindergarten funding - guidelines - technical assistance - legislative intent - legislative declaration.
22-54-126.	Declining enrollment districts with new charter schools - additional aid - definitions.	22-54-132.	Declining enrollment study - legislative declaration - repeal. (Repealed)
22-54-127.	Tax increment financing task force - study impacts on public school finance - repeal. (Repealed)	22-54-133.	Charter school for the deaf and the blind - supplementary funding - definitions. (Repealed)
22-54-128.	Military dependent supplemental pupil enrollment aid - definitions. (Repealed)	22-54-134.	Hold-harmless facility school student funding - legislative declaration - repeal. (Repealed)
22-54-129.	Facility school funding - definitions - legislative declaration.	22-54-135.	Average daily membership study - fund created - repeal. (Repealed)
22-54-130.	Hold-harmless full-day kindergarten funding.		

**22-54-101. Short title.** This article shall be known and may be cited as the "Public School Finance Act of 1994".

**Source: L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27.

#### ANNOTATION

**Constitutionality of prior school finance system.** The school finance system provided in the "Public School Finance Act of 1973" did not violate § 2 of art. IX, Colo. Const., nor did

it deny equal protection of the law, as it was rationally related to a legitimate state purpose. Lujan v. Colo. State Bd. of Educ., 649 P.2d 1005 (Colo. 1982).

**22-54-102. Legislative declaration - statewide applicability - intergovernmental agreements.** (1) The general assembly hereby finds and declares that this article is enacted in furtherance of the general assembly's duty under section 2 of article IX of the state constitution to provide for a thorough and uniform system of public schools throughout the state; that a thorough and uniform system requires that all school districts and institute charter schools operate under the same finance formula; and that equity considerations dictate that all districts and institute charter schools be subject to the expenditure and maximum levy provisions of this article. Accordingly, the provisions of this article concerning the financing of public schools for budget years beginning on and after July 1, 1994, shall apply to all school districts and institute charter schools organized under the laws of this state.

(2) The general assembly hereby finds and declares that in enacting this article it has adopted a formula for the support of schools for the 1994-95 budget year and budget years thereafter; however, the adoption of such formula in no way represents a commitment on the part of the general assembly concerning the level of total funding for schools for the 1995-96 budget year or any budget year thereafter.

(3) (a) Nothing in this article shall be construed to prohibit local governments from cooperating with school districts through intergovernmental agreements to fund, construct, maintain, or manage capital construction projects or other facilities as set forth in section 22-45-103 (1) (c) (I) (A) or (1) (c) (I) (D), including, but not limited to, swimming pools, playgrounds, or ball fields, as long as funding for such projects is provided solely from a source of local government revenue that is otherwise authorized by law except impact fees or other similar development charges or fees.

(b) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, nothing in this subsection (3) shall be construed to:

(I) Limit or restrict a county's power to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof pursuant to section 30-28-133 (4) (a), C.R.S., or to limit a local government's ability to accept and expend



impact fees or other similar development charges or fees contributed voluntarily on or before December 31, 1997, to fund the capital projects of school districts according to the terms of agreements voluntarily entered into on or before June 4, 1996, between all affected parties;

(II) Repealed.

(III) Grant authority to local governments to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof; however, the prohibition on impact fees or other similar development charges or fees contained in this subsection (3) shall not be construed to restrict the authority of any local government to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof if such local government otherwise has such authority granted by law.

**Source:** **L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27. **L. 96:** (3) added, p. 1802, § 29, effective June 4; (3) amended, p. 1859, § 1, effective June 5. **L. 2000:** (3)(a) amended, p. 520, § 6, effective August 2. **L. 2004:** (1) amended, p. 1636, § 41, effective July 1. **L. 2006:** (3)(b)(II) repealed, p. 611, § 39, effective August 7.

### ANNOTATION

**Law reviews.** For comment, “School Impact Fees in Colorado: Gone, but Hopefully Not Forgotten”, see 70 U. Colo. L. Rev. 257 (1998).

**The legislature’s recognition** in subsection (3) that authorized local sources of revenue may be used to fund capital construction projects constitutes a clarification of existing law rather than a modification thereof and shall be given

effect. County Comm’rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

Voluntary contributions may be made for schools, either through an enforceable agreement entered into before July 1, 1996, or with a contribution to be made before December 31, 1997. County Comm’rs of Douglas County v. Bainbridge, 929 P.2d 691 (Colo. 1996).

**22-54-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) (Deleted by amendment, L. 2003, p. 2117, § 1, effective May 22, 2003.)

(1.3) “Accounting district” means the school district within whose geographic boundaries an institute charter school is physically located.

(1.4) “ASCENT program” means the accelerating students through concurrent enrollment program created in section 22-35-108.

(1.5) (a) “At-risk pupils” means:

(I) to (IV) Repealed.

(V) For the 2005-06 budget year and budget years thereafter, the number of district pupils with limited English proficiency plus the greater of:

(A) The number of district pupils eligible for free lunch; or

(B) The number of pupils calculated in accordance with the following formula:

District percentage of pupils eligible for free lunch x District pupil enrollment.

(b) For purposes of this subsection (1.5):

(I) “District percentage of pupils eligible for free lunch” means the district pupils eligible for free lunch in grades one through eight divided by the district pupil enrollment in grades one through eight.

(II) “District pupil enrollment” means the pupil enrollment of the district, as determined in accordance with subsection (10) of this section, minus the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(III) “District pupils eligible for free lunch” means the number of pupils included in the district pupil enrollment who are eligible for free lunch pursuant to the provisions of the federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq.

(IV) “District pupils with limited English proficiency” means the number of pupils included in the district pupil enrollment for the preceding budget year who were not eligible

for free lunch pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., and who are students with limited English proficiency, as defined in section 22-24-103 (4), and:

(A) Whose scores were not included in calculating school academic performance grades as provided in section 22-7-409 (1.2) (d) (I) (C); or

(B) Who took an assessment administered pursuant to section 22-7-409 in a language other than English.

(c) For purposes of this subsection (1.5), at-risk pupils shall be counted in the same manner as pupils are counted pursuant to subsection (10) of this section.

(2) "Board of education" means the board of education of a district.

(3) "Budget year" means the period beginning on July 1 of each year and ending on the following June 30 for which a budget for a district is adopted.

(4) "Department of education" means the department of education created in section 24-1-115, C.R.S.

(5) "District" means any public school district organized under the laws of Colorado, except a junior college district.

(5.2) "District ASCENT program pupil enrollment" means the number of pupils, on the pupil enrollment count day within the applicable budget year, who are concurrently enrolled in a postsecondary course, including an academic course or a career and technical education course, as a participant in the ASCENT program. An ASCENT program participant who is enrolled in at least twelve credit hours of postsecondary courses, including academic courses and career and technical education courses, as of the pupil enrollment count day of the applicable budget year shall be included in the district ASCENT program pupil enrollment as a full-time pupil. An ASCENT program participant who is enrolled in less than twelve credit hours of postsecondary courses, including academic courses and career and technical education courses, as of the pupil enrollment count day of the applicable budget year shall be included in the district ASCENT program pupil enrollment as a part-time pupil.

(5.5) "District percentage of at-risk pupils" means the number of at-risk pupils in the district, as determined in accordance with subsection (1.5) of this section, divided by the pupil enrollment of the district, as determined in accordance with subsection (10) of this section; except that pupil enrollment shall not include the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(6) "District's total program" means the funding for a district, as determined pursuant to section 22-54-104 or section 22-54-104.3, whichever is applicable, which represents the financial base of support for public education in that district.

(7) "Funded pupil count" means:

(a) For budget years commencing prior to July 1, 2002, the greater of:

(I) The district's pupil enrollment for the applicable budget year; or

(II) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(III) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(IV) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years;

(b) (I) For the budget year commencing on July 1, 2002, the district's on-line pupil enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years.

(II) Repealed.



(c) (I) For budget years commencing on and after July 1, 2003, but prior to July 1, 2008, the district's on-line pupil enrollment for the applicable budget year plus the district's preschool and kindergarten program enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years.

(II) and (III) Repealed.

(IV) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (c) for budget years beginning on or after July 1, 2004, a district's funded pupil count shall include the certified pupil enrollment and on-line pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and on-line pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(d) (I) For budget years commencing on and after July 1, 2008, but prior to July 1, 2009, the district's on-line pupil enrollment for the applicable budget year plus the district's preschool program enrollment for the applicable budget year plus the district's supplemental kindergarten enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years; or

(E) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years.

(II) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (d), a district's funded pupil count shall include the certified pupil enrollment and on-line pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and on-line pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(III) Repealed.

(IV) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, averaging a district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years pursuant to sub-subparagraph (E) of subparagraph (I) of this paragraph (d) is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(e) (I) For budget years commencing on and after July 1, 2009, the district's on-line pupil enrollment for the applicable budget year plus the district's preschool program enrollment for the applicable budget year plus the district's supplemental kindergarten enrollment for the applicable budget year plus the district's ASCENT program pupil enrollment for the applicable budget year, plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years; or

(E) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years.

(II) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (e), a district's funded pupil count shall include the certified pupil enrollment and on-line pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and on-line pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(III) Repealed.

(IV) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, averaging a district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years pursuant to sub-subparagraph (E) of subparagraph (I) of this paragraph (e) is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(V) Notwithstanding any provision of law to the contrary, for the 2010-11 budget year and each budget year thereafter, for the purposes of this paragraph (e), a district's pupil enrollment for the applicable budget year and a district's pupil enrollment for any preceding budget year shall not include any pupil who is or was enrolled in a charter school that was originally authorized by the district but was subsequently converted, on or after July 1, 2010, to an institute charter school or to a charter school of a district contiguous to the originally authorizing district.

(7.5) "Institute charter school" means a charter school that enters into a charter contract with the state charter school institute pursuant to the provisions of part 5 of article 30.5 of this title.

(8) "Joint district" means a district which is located in more than one county.

(8.5) (a) "On-line pupil enrollment" means:

(I) (Deleted by amendment, L. 2009, (SB 09-292), ch. 369, p. 1964, § 64, effective August 5, 2009.)

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district on-line school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title.

(b) For budget years beginning on or after July 1, 2004, a district's on-line pupil enrollment shall include the certified on-line pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified on-line pupil enrollment to the on-line pupil enrollment of the district prior to calculating the district's total program pursuant to section 22-54-104.

(9) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1914, § 42, effective June 10, 2010.)

(9.3) "Per pupil revenues" means the district's total program for any budget year divided by the district's funded pupil count for said budget year.

(9.5) (a) (I) "Preschool program enrollment" means the number of pupils enrolled in a district preschool program pursuant to article 28 of this title on the pupil enrollment count day within the applicable budget year. A pupil enrolled in a district preschool program pursuant to article 28 of this title shall be counted as a half-day pupil.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), for budget years commencing on or after July 1, 2005, a district may choose to determine the number of pupils enrolled in the district preschool program pursuant to article 28 of this title on November 1 within the applicable budget year or the school date nearest said date, rather than on the pupil enrollment count day. The "preschool program enrollment" for the district shall be the number of pupils enrolled in the district preschool program, who shall be counted as half-day pupils.



(b) For purposes of determining preschool program enrollment for the 2008-09 budget year and each budget year thereafter, a district shall count and receive funding only for:

(I) Pupils enrolled in a district preschool program pursuant to section 22-28-104 who are three years old as of October 1 of the applicable budget year; and

(II) Pupils enrolled in a district preschool program pursuant to section 22-28-104 who are at least four years old as of October 1 of the applicable budget year.

(III) (Deleted by amendment, L. 2008, p. 1227, § 43, effective May 22, 2008.)

(10) (a) (I) "Pupil enrollment" means the number of pupils enrolled on the pupil enrollment count day within the applicable budget year, as evidenced by the actual attendance of such pupils prior to said date, except as otherwise provided in subparagraph (II) of this paragraph (a), plus the number of pupils expelled prior to the pupil enrollment count day within the applicable budget year who are receiving educational services pursuant to section 22-33-203 as of the pupil enrollment count day of the applicable budget year.

(II) "Pupil enrollment" shall include:

(A) For the 2007-08 budget year, a pupil who was enrolled during the 2001-02 school year in an on-line program authorized pursuant to section 22-33-104.6, as it existed prior to July 1, 2007, and who is enrolled and participates in any such on-line program on October 1 within the applicable budget year or the school day nearest said date.

(B) For the 2008-09 budget year, and for budget years thereafter, a pupil who is enrolled in, attending, and actively participating in a single-district on-line program or on-line school operated pursuant to article 30.7 of this title.

(III) Repealed.

(III.5) For the 2009-10 budget year and budget years thereafter, "pupil enrollment" shall include any juvenile to whom the school district is providing educational services pursuant to section 22-32-141 as of the pupil enrollment count day of the applicable budget year.

(IV) (A) Except as provided in sub-subparagraph (B) of this subparagraph (IV), for purposes of determining pupil enrollment in first grade for the 2006-07 budget year and each budget year thereafter, a district shall count and receive funding only for pupils enrolled in first grade who are six years old on or before October 1 of the applicable budget year.

(B) For purposes of determining pupil enrollment in first grade for the 2007-08 budget year and each budget year thereafter, in addition to the pupils counted pursuant to sub-subparagraph (A) of this subparagraph (IV), a district may count and receive funding for a pupil who is enrolled in first grade who is at least five years old on or before October 1 of the applicable budget year if the pupil attended at least one hundred twenty days of kindergarten in a state other than Colorado. A district may also receive funding for a pupil who is five years old and who has been identified by the district or an administrative unit as a highly advanced gifted child for whom early access to first grade is appropriate, as provided in section 22-20-204.

(V) Notwithstanding the provisions of this paragraph (a), for the 2008-09 budget year and each budget year thereafter, "pupil enrollment" shall not include a pupil who is placed in a facility, as defined in section 22-2-402 (3), and is receiving services through an approved facility school, as defined in section 22-2-402 (1).

(a.5) Repealed.

(b) (I) A pupil enrolled in a kindergarten educational program pursuant to section 22-32-119 (1) shall be counted as not more than a half-day pupil; except that, if the pupil does not advance to first grade, pursuant to section 22-7-1207, after completing one year of enrollment in a kindergarten educational program, the pupil shall be counted as a full-day pupil for the second year in which he or she is enrolled in the kindergarten educational program. For the 2005-06 budget year and each budget year thereafter, a district shall count and receive funding only for pupils enrolled in a kindergarten educational program who are:

(A) Five years old as of October 1 of the applicable budget year; or

(B) Four years old as of October 1 of the applicable budget year and who have been identified by an administrative unit to be highly advanced gifted children for whom early access to kindergarten is appropriate, as provided in section 22-20-204.

(I.5) Repealed.

(II) A pupil with a disability receiving an educational program under the “Exceptional Children’s Educational Act”, article 20 of this title, who would be in kindergarten but for such disability, shall be counted as a half-day pupil. A pupil with a disability receiving a full-day educational program under said act, who would be in a grade beyond kindergarten but for such disability, shall be counted as a full-day pupil.

(c) (Deleted by amendment, L. 2003, p. 2119, § 4, effective May 22, 2003.)

(d) (I) A three- or four-year-old pupil with a disability receiving an educational program under the “Exceptional Children’s Educational Act”, article 20 of this title, shall be counted as a half-day pupil.

(II) Notwithstanding any provision of this subsection (10) to the contrary, for budget years commencing on or after July 1, 2005, a district may choose to determine the number of three- and four-year-old pupils with disabilities enrolled and receiving educational programs under the “Exceptional Children’s Educational Act”, article 20 of this title, as of November 1 within the applicable budget year or the school date nearest said date, rather than on the pupil enrollment count day, as evidenced by the actual attendance of such pupils on November 1 or the school date nearest said date. The “pupil enrollment” of the district shall include the number of pupils so enrolled who shall be counted as half-day pupils.

(e) A pupil determined to have a disability in accordance with section 22-20-108 and receiving an educational program outside of the district of residence shall be considered enrolled in the district of residence for purposes of this subsection (10).

(e.5) A pupil who is enrolled as less than a full-time student, other than a student described in paragraph (b) or (d) of this subsection (10), shall be counted in accordance with rules promulgated by the state board for students who are enrolled as less than full-time students.

(e.7) (Deleted by amendment, L. 2009, (HB 09-1319), ch. 286, p. 1317, § 6, effective May 21, 2009.)

(f) In certifying the district’s pupil enrollment to the state board pursuant to the provisions of section 22-54-112, the district shall specify the number of pupils enrolled in half-day kindergarten; the number of pupils enrolled in first grade through twelfth grade, specifying those who are enrolled as full-time pupils and those who are enrolled as less than full-time pupils; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils enrolled in the district’s preschool program; the number of pupils receiving educational programs under the “Exceptional Children’s Educational Act”, article 20 of this title; and the number of at-risk pupils.

(10.5) (a) “Pupil enrollment count day” means October 1 of each year; except that:

(I) In any year in which October 1 is a Saturday, a Sunday, or any other day on which school is not in session, except as described in subparagraphs (II) and (III) of this paragraph (a), the pupil enrollment count day is the Monday following that Saturday, Sunday, or other day;

(II) In any year in which a day of a major religious holiday occurs upon October 1, or, in years in which October 1 falls on a Saturday, Sunday, or other day on which school is not in session as described in subparagraph (I) of this paragraph (a), or upon the Monday directly following October 1, the pupil enrollment count day is the first school day immediately following the conclusion of the holiday; and

(III) The department of education is authorized to establish alternative dates for determining pupil enrollment in appropriate circumstances, including, but not limited to, when schools are on a year-round schedule pursuant to section 22-32-109 (1) (n) and pupils will be on authorized breaks on October 1 within the applicable budget year; except that such alternative dates shall be set not more than forty-five calendar days after the first school day occurring after October 1.

(b) On or before July 1, 2012, the state board shall promulgate rules establishing the meaning of “major religious holiday” for the purposes of this subsection (10.5).

(11) “Specific ownership tax revenue paid to the district” means the amount of specific ownership tax revenue received by the district pursuant to section 42-3-107 (24), C.R.S., for the prior budget year that is attributable to all property tax levies made by the district except those property tax levies made for the purpose of satisfying bonded indebtedness obliga-



tions, both principal and interest, and those property tax levies authorized at elections held under the provisions of former section 22-53-117 or section 22-54-108 or 22-54-108.5.

(12) "State average per pupil revenues" means the total program of all districts for any budget year divided by the total funded pupil count of all districts for said budget year.

(13) "State board" means the state board of education.

(14) "Statewide average percentage of at-risk pupils" means the total number of at-risk pupils in all districts, as determined in accordance with subsection (1.5) of this section, divided by the pupil enrollment of all districts, as determined in accordance with subsection (10) of this section; except that pupil enrollment shall not include the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(15) "Supplemental kindergarten enrollment" means the number calculated by subtracting five-tenths from the full-day kindergarten factor for the applicable budget year and then multiplying said number by the number of pupils in the district who are enrolled in kindergarten for the applicable budget year. For the purposes of this subsection (15), the full-day kindergarten factor for the 2008-09, 2009-10, and 2010-11 budget years and each budget year thereafter is fifty-eight hundredths of a full-day pupil.

**Source: L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27; (6) and (12) amended, p. 1281, § 2, effective May 22. **L. 95:** (1)(a)(II) amended, p. 611, § 13, effective May 22; (11) amended, p. 951, § 1, effective May 25. **L. 96:** (1)(c) and (10)(a) amended, p. 1795, § 10, effective June 4. **L. 97:** (1)(b)(III), (1)(c), (7), (9), and (10)(a) amended, p. 582, § 8, effective April 30. **L. 98:** (10)(a) and (10)(f) amended, p. 571, § 5, effective April 30; (7) amended, p. 966, § 8, effective May 27; (10)(a) amended, p. 658, § 4, effective August 5. **L. 99:** (1)(d) added, p. 176, § 2, effective March 30. **L. 2000:** (1)(d) repealed, p. 1546, § 4, effective August 2. **L. 2001:** (1), (5.5), and (14) amended and (1.5) and (10)(a.5) added, pp. 340, 361, §§ 4, 29, effective April 16; (10)(b) and (10)(f) amended, p. 562, § 5, effective May 29. **L. 2002:** (1.5)(b)(III) amended, p. 1020, § 32, effective June 1; (7) and (10)(a)(II) amended and (8.5) added, p. 1732, § 2, effective June 7. **L. 2003:** (10)(a)(III) added, p. 939, § 2, effective April 16; (1), IP(1.5)(a)(III), IP(7)(b)(I), (8.5), (10)(b)(I), (10)(c), and (10)(f) amended and (1.5)(a)(IV), (7)(c), (9.5), (10)(b)(1.5), and (10)(e.5) added, pp. 2117, 2118, 2131, 2119, §§ 1, 2, 23, 3, 4, 5, effective May 22. **L. 2004:** (9.5), (10)(b)(I), and (10)(f) amended and (10)(a)(IV) added, pp. 1386, 1387, §§ 1, 2, effective May 28; (1.3), (7.5), and (9.3) added and (7)(c) and (8.5) amended, p. 1636, § 42, effective July 1; (10)(e.5) amended, p. 1213, § 105, effective August 4. **L. 2005:** IP(1.5)(a)(IV), (10)(b)(I), and (10)(f) amended and (1.5)(a)(V) added, pp. 430, 434, §§ 2, 7, effective April 29; (9.5)(a) and (10)(d) amended, p. 1005, § 1, effective June 2; (11) amended, p. 1181, § 28, effective August 8. **L. 2006:** (1.5)(b)(II), (5.5), IP(7)(c)(I), (9.5), (10)(b)(I), (10)(f), and (14) amended, p. 697, § 42, effective April 28; (1.5)(a)(I), (1.5)(a)(II), (1.5)(a)(III), (1.5)(a)(IV), and (10)(a)(III) repealed, p. 611, § 40, effective August 7. **L. 2007:** (11) amended, p. 38, § 6, effective March 7; (10)(e.7) added and (10)(f) amended, p. 337, § 2, effective April 2; (10)(a)(IV) amended, p. 733, § 2, effective May 9; (8.5) and (10)(a)(II) amended, p. 1085, § 7, effective July 1. **L. 2008:** (10)(a)(IV)(B) and (10)(b)(I) amended, p. 777, § 3, effective May 14; IP(7)(c)(I) and (9.5) amended and (7)(d), (10)(a)(V), and (15) added, pp. 1194, 1227, 1195, §§ 3, 43, 4, 5, effective May 22; (10)(f) amended, p. 1901, § 84, effective August 5. **L. 2009:** (7)(d)(III)(A) and (10)(a)(V) amended, (HB 09-1189), ch. 99, p. 370, § 3, effective April 3; (1.4), (5.2), and (7)(e) added and IP(7)(d)(I), (10)(e.7), and (10)(f) amended, (HB 09-1319), ch. 286, p. 1317, §§ 5, 6, effective May 21; (15) amended, (SB 09-256), ch. 294, p. 1548, § 2, effective May 21; (5.2) amended, (SB 09-285), ch. 425, p. 2375, § 8, effective June 4; (1.5)(b)(II), (5.5), (8.5)(a)(I), and (14) amended, (SB 09-292), ch. 369, p. 1964, § 64, effective August 5. **L. 2010:** IP(1.5)(a)(V) and IP(1.5)(b)(IV) amended, (SB 10-062), ch. 168, p. 595, § 13, effective April 29; (7)(e)(V) added, (HB 10-1369), ch. 246, p. 1100, § 8, effective May 21; (10)(a)(III.5) added, (SB 10-054), ch. 265, p. 1212, § 2, effective May 25; (9) and (12) amended, (HB 10-1013), ch. 399, p. 1914, § 42, effective June 10. **L. 2011:** (15) amended, (SB 11-157), ch. 10, p. 21, § 1, effective March 9; (10)(a)(IV)(B) and (10)(b)(I)(B)

amended, (HB 11-1077), ch. 30, p. 85, § 16, effective August 10. **L. 2012:** (5.2), (8.5)(a)(II), (9.5)(a), (10)(a)(I), (10)(a)(III.5), and (10)(d)(II) amended and (10.5) added, (HB 12-1090), ch. 44, p. 155, § 20, effective March 22; (8.5)(a)(II) and (10)(a)(II)(B) amended, (HB 12-1240), ch. 258, p. 1331, § 46, effective June 4; IP(10)(b)(I) amended, (HB 12-1238), ch. 180, p. 672, § 14, effective July 1.

**Editor's note:** (1) Amendments to subsection (10)(a) by House Bill 98-1227 and Senate Bill 98-1 were harmonized. Amendments to subsection (8.5)(a)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

(2) Subsection (10)(b)(I.5)(B) provided for the repeal of subsection (10)(b)(I.5), effective July 1, 2003. (See L. 2003, p. 2119.) Subsection (10)(a.5)(II) provided for the repeal of subsection (10)(a.5), effective July 1, 2004. (See L. 2001, p. 361.) Subsection (7)(b)(II)(B) provided for the repeal of subsection (7)(b)(II), effective July 1, 2005. (See L. 2002, p. 1732.) Subsection (7)(c)(II)(B) provided for the repeal of subsection (7)(c)(II), effective July 1, 2005. (See L. 2003, p. 2118.) Subsection (7)(c)(III)(B) provided for the repeal of subsection (7)(c)(III), effective July 1, 2006. (See L. 2003, p. 2118.) Subsection (7)(d)(III)(B) provided for the repeal of subsection (7)(d)(III), effective July 1, 2012. (See L. 2008, p. 1195.) Subsection (7)(e)(III)(B) provided for the repeal of subsection (7)(e)(III), effective July 1, 2012. (See L. 2009, p. 1317.)

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (10)(b) and (10)(f), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (7)(c)(I) and subsection (9.5) and enacting subsections (7)(d), (10)(a)(V), and (15), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-104. District total program.** (1) (a) For every budget year, the provisions of this section shall be used to calculate for each district an amount that represents the financial base of support for public education in that district. Such amount shall be known as the district's total program. The district's total program shall be available to the district to fund the costs of providing public education, and, except as otherwise provided in section 22-54-105, the amounts and purposes for which such moneys are budgeted and expended shall be in the discretion of the district.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if a district is the accounting district of an institute charter school, then the calculation of total program pursuant to the provisions of this section shall also represent the financial base of support for the institute charter school, even though the institute charter school is not a school of the district. The amount of the district's state share of total program that is withheld from the district and paid to the state charter school institute pursuant to the provisions of section 22-54-115 (1.3), shall not be available to nor under the control of the district, but shall be under the control of the governing board of the institute charter school to fund the costs of providing public education to pupils enrolled in the institute charter school, and the amounts and purposes for which such moneys are budgeted and expended shall be in the discretion of the institute charter school.

(2) (a) (I) to (III) Repealed.

(III.5) to (III.7) Repealed.

(III.8) (Deleted by amendment, L. 2002, p. 1734, § 3, effective June 7, 2002.)

(IV) (Renumbered as paragraph (a.5) of this subsection (2).)

(V) and (VI) Repealed.

(VII) Except as otherwise provided in this subsection (2), subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2003-04 budget year through the 2006-07 budget year shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District on-line pupil enrollment)) + District at-risk funding + District on-line funding; or

(B) Minimum per pupil funding x District funded pupil count.

(VIII) Except as otherwise provided in this subsection (2), subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2007-08 budget year and the 2008-09 budget year shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District on-line pupil enrollment)) + District at-risk funding + District on-line funding; or



(B) (Minimum per pupil funding x (District funded pupil count - District on-line pupil enrollment)) + District on-line funding.

(IX) Except as otherwise provided in this subsection (2), paragraph (g) of subsection (5) or subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2009-10 budget year and budget years thereafter shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District on-line pupil enrollment - District ASCENT program pupil enrollment)) + District at-risk funding + District on-line funding + District ASCENT program funding; or

(B) (Minimum per pupil funding x (District funded pupil count - District on-line pupil enrollment - District ASCENT program pupil enrollment)) + District on-line funding + District ASCENT program funding.

(a.5) Repealed.

(b) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, the district's total program shall be the lesser of:

(I) The district's total program as calculated pursuant to paragraph (a) of this subsection (2); or

(II) (A) The district's total program as calculated by: Adding the amount determined by multiplying the district's per pupil funding by four hundred fifty-nine to the amount determined by multiplying 12% of the district's per pupil funding by the district's at-risk pupils; then dividing the sum of those two amounts by four hundred fifty-nine; then multiplying the resulting amount by the district's funded pupil count minus the district's on-line pupil enrollment; and then adding the district's on-line funding.

(B) For purposes of sub-subparagraph (A) of this subparagraph (II) only, a district's per pupil funding shall be calculated by establishing the district's per pupil funding in accordance with subsection (3) of this section except using the size factor for a district with a funded pupil count of four hundred fifty-nine and not the district's actual size factor.

(3) A district's per pupil funding shall be determined in accordance with the following formula:

((Statewide base per pupil funding x District personnel costs factor x District cost of living factor) + (Statewide base per pupil funding x District nonpersonnel costs factor)) x District size factor.

(3.5) Minimum per pupil funding shall be:

(a) For the 2003-04 budget year, \$5,511;

(b) For the 2004-05 budget year through the 2006-07 budget year, the dollar amount set forth in paragraph (a) of this subsection (3.5) increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2003-04 budget year. Such amount shall be rounded to the nearest dollar.

(c) For the 2007-08 budget year, an amount equal to ninety-four and three tenths percent of the minimum per pupil funding base;

(d) (I) For the 2008-09 budget year and budget years thereafter, an amount equal to ninety-five percent of the minimum per pupil funding base.

(II) (A) As used in this subsection (3.5), for the 2008-09 budget year, "minimum per pupil funding base" means the total of the calculation specified in sub-subparagraph (B) of this subparagraph (II) for all districts for the budget year divided by the statewide funded pupil count minus the statewide on-line pupil enrollment, for said budget year.

(B) The following calculation shall be used for the purpose of determining the minimum per pupil funding base pursuant to this subparagraph (II):

(District per pupil funding x (District funded pupil count - District on-line pupil enrollment)) + District at-risk funding.

(III) (A) As used in this subsection (3.5), for the 2009-10 budget year and budget years thereafter, "minimum per pupil funding base" means the total of the calculation specified in sub-subparagraph (B) of this subparagraph (III) for all districts for the budget year

divided by the statewide funded pupil count minus the statewide on-line pupil enrollment and minus the statewide ASCENT program pupil enrollment, for said budget year.

(B) The following calculation shall be used for the purpose of determining the minimum per pupil funding base pursuant to this subparagraph (III):

$$(\text{District per pupil funding} \times (\text{District funded pupil count} - \text{District on-line pupil enrollment} - \text{District ASCENT program pupil enrollment})) + \text{District at-risk funding}.$$

(4) A district's at-risk funding shall be determined in accordance with one of the following formulas:

(a) (I) If the district percentage of at-risk pupils is equal to or less than the statewide average percentage of at-risk pupils or the district's funded pupil count is equal to or less than four hundred fifty-nine, the formula shall be:

$$(\text{District per pupil funding} \times 12\%) \times \text{District at-risk pupils}.$$

(II) Repealed.

(b) (I) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, the formula shall be:

$$((\text{District per pupil funding} \times 12\%) \times (\text{Statewide average percentage of at-risk pupils} \times \text{District pupil enrollment})) + ((\text{District per pupil funding} \times \text{District at-risk factor}) \times (\text{District at-risk pupils} - (\text{Statewide average percentage of at-risk pupils} \times \text{District pupil enrollment}))).$$

(II) Repealed.

(4.5) A district's on-line funding shall be determined in accordance with the following formulas:

(a) Repealed.

(b) For the 2003-04 budget year through the 2006-07 budget year, the formula shall be:

$$(\text{Minimum per pupil funding} \times \text{District on-line pupil enrollment}).$$

(c) (I) For the 2007-08 budget year and budget years thereafter, a district's on-line funding shall be:

$$(\text{District on-line pupil enrollment} \times \$6,135).$$

(II) Subject to the provisions of subparagraph (III) of this paragraph (c), for the 2008-09 budget year and budget years thereafter, the dollar amount set forth in subparagraph (I) of this paragraph (c) shall be increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2007-08 budget year, as specified in subparagraph (XIV) of paragraph (a) of subsection (5) of this section. Such amount shall be rounded to the nearest dollar.

(III) In any budget year in which the provisions of paragraph (g) of subsection (5) of this section apply, the department of education shall calculate a district's reduction amount for on-line funding by multiplying the negative factor calculated for the applicable budget year pursuant to sub-subparagraph (A) of subparagraph (II) of paragraph (g) of subsection (5) of this section by the district's on-line funding calculated pursuant to subparagraph (II) of this paragraph (c) for the applicable budget year. A district's on-line funding for the applicable budget year shall be the greater of:

(A) The district's on-line funding amount calculated for the applicable budget year pursuant to subparagraph (II) of this paragraph (c) minus the district's reduction amount calculated for the applicable budget year pursuant to this subparagraph (III) for on-line funding; or

(B) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year multiplied by the district's on-line pupil enrollment for the applicable budget year.



(4.7) (a) For the 2009-10 budget year and budget years thereafter, a district's ASCENT program funding shall be determined in accordance with the following formula:

(District ASCENT program pupil enrollment x \$6,135, or an amount determined pursuant to paragraph (b) of this subsection (4.7)).

(b) Subject to the provisions of paragraph (c) of this subsection (4.7), for the 2010-11 budget year and budget years thereafter, the dollar amount set forth in paragraph (a) of this subsection (4.7) shall be increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2007-08 budget year, as specified in subparagraph (XIV) of paragraph (a) of subsection (5) of this section. The amount shall be rounded to the nearest dollar.

(c) In any budget year in which the provisions of paragraph (g) of subsection (5) of this section apply, the department of education shall calculate a district's reduction amount for ASCENT program funding by multiplying the negative factor calculated for the applicable budget year pursuant to sub-subparagraph (A) of subparagraph (II) of paragraph (g) of subsection (5) of this section by the amount of the district's ASCENT program funding calculated pursuant to paragraph (b) of this subsection (4.7) for the applicable budget year. A district's ASCENT program funding for the applicable budget year shall be the greater of:

(I) The district's ASCENT program funding calculated for the applicable budget year pursuant to paragraph (b) of this subsection (4.7) minus the district's reduction amount calculated for the applicable budget year pursuant to this paragraph (c) for ASCENT program funding; or

(II) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year multiplied by the district's ASCENT program pupil enrollment for the applicable budget year.

(5) For purposes of the formulas used in this section:

(a) (I) to (XII) Repealed.

(XIII) For the 2006-07 budget year, the statewide base per pupil funding shall be \$4,863.87, which is an amount equal to \$4,717.62 supplemented by \$146.25 to account for inflation plus an additional one percentage point.

(XIV) For the 2007-08 budget year, the statewide base per pupil funding shall be \$5,087.61, which is an amount equal to \$4,863.87 supplemented by \$223.74 to account for inflation plus an additional one percentage point.

(XV) For the 2008-09 budget year, the statewide base per pupil funding shall be \$5,250.41, which is an amount equal to \$5,087.61 supplemented by \$162.80 to account for inflation plus an additional one percentage point.

(XVI) For the 2009-10 budget year, the statewide base per pupil funding shall be \$5,507.68, which is an amount equal to \$5,250.41 supplemented by \$257.27 to account for inflation plus an additional one percentage point.

(XVII) For the 2010-11 budget year, the statewide base per pupil funding shall be \$5,529.71, which is an amount equal to \$5,507.68 supplemented by \$22.03, to account for inflation plus an additional one percentage point.

(XVIII) For the 2011-12 budget year, the statewide base per pupil funding shall be \$5,634.77, which is an amount equal to \$5,529.71 supplemented by \$105.06 to account for inflation.

(XIX) For the 2012-13 budget year, the statewide base per pupil funding is \$5,843.26, which is an amount equal to \$5,634.77 supplemented by \$208.49 to account for inflation.

(b) (I) Repealed.

(I.2) to (I.4) Repealed.

(I.5) A district's size factor for the 2003-04 budget year and budget years thereafter shall be determined in accordance with the following formula:

If the district's funded pupil count is:	The district's size factor shall be:
Less than 276	$1.5457 + (0.00376159 \times \text{the difference between the funded pupil count and } 276)$
276 or more but less than 459	$1.2385 + (0.00167869 \times \text{the difference between the funded pupil count and } 459)$
459 or more but less than 1,027	$1.1215 + (0.00020599 \times \text{the difference between the funded pupil count and } 1,027)$
1,027 or more but less than 2,293	$1.0533 + (0.00005387 \times \text{the difference between the funded pupil count and } 2,293)$
2,293 or more but less than 4,023	$1.0297 + (0.00001364 \times \text{the difference between the funded pupil count and } 4,023)$
4,023 or more	1.0297

(II) (A) Except as otherwise allowed for qualified school districts pursuant to sub-subparagraph (B) of this subparagraph (II), as it existed prior to July 1, 2001, if the reorganization of any district or districts results in any district involved in the reorganization having a higher size factor than the original district or districts had for the budget year immediately preceding reorganization, the districts involved in the reorganization shall be allowed, for each budget year, the size factor the original district had prior to the reorganization or, if two or more districts reorganize into a single district, the size factor of the original district with the lowest size factor for the budget year immediately preceding reorganization. Except as otherwise allowed for qualified school districts pursuant to sub-subparagraph (B) of this subparagraph (II), as it existed prior to July 1, 2001, no district involved in the reorganization shall, for any budget year, be allowed the size factor that would otherwise be provided by this paragraph (b).

(B) Repealed.

(III) If the reorganization of any district or districts results in any district involved in the reorganization having a lower size factor than the original district or districts had for the budget year immediately preceding reorganization, the new district or districts shall be allowed a size factor determined as follows:

(A) For the first budget year following reorganization, the size factor of the original district for the budget year immediately preceding reorganization or, if two or more districts are involved in the reorganization, the weighted average size factor of the original districts for the budget year immediately preceding reorganization. For purposes of this sub-subparagraph (A), the weighted average size factor shall be the sum of the amounts calculated by multiplying the funded pupil counts of the original districts by the size factor of the original districts and dividing that sum by the total funded pupil count of the original districts.

(B) For the second budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-fifth of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(C) For the third budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-fourth of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(D) For the fourth budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-third of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);



(E) For the fifth budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-half of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(F) For the sixth budget year following reorganization and budget years thereafter, the size factor determined pursuant to subparagraph (I) of this paragraph (b).

(IV) For the 1998-99 budget year and budget years thereafter, the funded pupil count used to calculate a district's size factor pursuant to this paragraph (b) shall be the funded pupil count, as calculated pursuant to section 22-54-103 (7), reduced by sixty-five percent of the number of pupils included in the funded pupil count that are enrolled in charter schools in the district; except that the provisions of this subparagraph (IV) shall only apply to those districts with a funded pupil count, as calculated pursuant to section 22-54-103 (7), of five hundred or less.

(c) (I) The cost of living factor allowed for each district pursuant to this paragraph (c) reflects the differences in the costs of housing, goods, and services among regions in which districts are located. Such factor does not reflect any annual increase in the costs of housing, goods, and services caused by inflation.

(II) (A) and (B) Repealed.

(B.1) Except as provided in subparagraph (IV) of this paragraph (c), for the 2000-01 budget year and budget years thereafter, a district's cost of living factor shall be the district's cost of living factor for the prior budget year, but, if the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study is greater than the percent increase in the income level used in the cost of living study, a district's cost of living factor shall be determined by dividing the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study by the percent increase in the income level used in the cost of living study, dividing said amount by one thousand and rounding to the nearest one-thousandth of one percent, and adding the result obtained to the district's cost of living factor for the prior budget year.

(C) For purposes of this subparagraph (II), a district's cost of living amount refers to the values as adjusted for district labor pool areas.

(III) (A) Based upon the cost of living analysis conducted pursuant to the SB 93-87 setting category study, the staff of the legislative council shall certify the cost of living factor for each district to the department of education no later than ten days following April 27, 1994. Such cost of living factors shall be effective for the 1994-95 budget year and the budget year thereafter. The cost of living factor for each district shall be certified to the department by the staff of the legislative council for each two-year period thereafter based upon a new cost of living analysis. The certification shall be made no later than April 15 of the applicable year and shall be effective for the budget year beginning on July 1 of such year and the budget year thereafter.

(B) For the 2003-04 budget year and each budget year thereafter in which a new cost of living analysis is required pursuant to sub-subparagraph (A) of this subparagraph (III), the department of education shall transfer a portion of the total amount appropriated by the general assembly in the annual general appropriation bill for that budget year for assistance to public schools, public school finance, state share of districts' total program funding to the legislative council to fund the cost of living analysis required by sub-subparagraph (A) of this subparagraph (III). The amount transferred by the department shall not exceed the maximum amount specified in a footnote related to this appropriation in the annual general appropriation bill for that budget year. The remainder of the amount appropriated for assistance to public schools, public school finance, state share of districts' total program funding shall be distributed to school districts in the manner provided in section 22-54-106 (4) (c).

(IV) (A) The department of education shall promulgate rules and regulations for the assignment of a cost of living factor to any new district organized pursuant to article 30 of this title, except for new districts that are created as the result of a deconsolidation as described in section 22-30-102 (2) (a), until the cost of living factor for such district is

certified by the staff of the legislative council pursuant to subparagraph (III) of this paragraph (c).

(B) The rules and regulations promulgated pursuant to this subparagraph (IV) shall be designed to provide neither an incentive nor a disincentive to the organization of new districts pursuant to article 30 of this title and shall include provisions to ensure that the cost of living factor within a new district is not reduced solely because the new district is the result of a consolidation of existing districts. Such rules and regulations shall consider the cost of living factors assigned to the districts that are affected by the organization of the new district and the circumstances of the new district based on the most recent cost of living analysis performed by the legislative council.

(C) New districts that are created as the result of a deconsolidation as described in section 22-30-102 (2) (a) shall retain the cost of living factor of the district from which they were separated until the cost of living factor for the new district is certified by the staff of the legislative council pursuant to subparagraph (III) of this paragraph (c).

(d) A district’s personnel costs factor for the 1994-95 budget year and budget years thereafter shall be determined in accordance with the following formula:

If the district’s funded pupil count is:	The district’s personnel costs factor shall be:
Less than 453.5	$0.8250 - (0.0000639 \times \text{the difference between the funded pupil count and } 453.5)$
453.5 or more but less than 1,567.5	$0.8595 - (0.0000310 \times \text{the difference between the funded pupil count and } 1,567.5)$
1,567.5 or more but less than 6,682	$0.8850 - (0.0000050 \times \text{the difference between the funded pupil count and } 6,682)$
6,682 or more but less than 30,000	$0.9050 - (0.0000009 \times \text{the difference between the funded pupil count and } 30,000)$
30,000 or more	0.9050

(e) A district’s nonpersonnel costs factor for the 1994-95 budget year and budget years thereafter shall be the difference between 1.00 and the district’s personnel costs factor.

(f) (I) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district’s funded pupil count is greater than four hundred fifty-nine but not in excess of fifty thousand, the district’s at-risk factor shall be 12% plus a 0.30 percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils; except that no district’s at-risk factor shall exceed 30%.

(II) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district’s funded pupil count is greater than fifty thousand, the district’s at-risk factor shall be 12% plus a 0.36 percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils; except that no district’s at-risk factor shall exceed 30%.

(g) (I) For the 2010-11 budget year and each budget year thereafter, the general assembly determines that stabilization of the state budget requires a reduction in the amount of the annual appropriation to fund the state’s share of total program funding for all districts and the funding for institute charter schools. The department of education shall implement the reduction in total program funding through the application of a negative factor as provided in this paragraph (g). For the 2010-11 budget year and each budget year thereafter, the department of education and the staff of the legislative council shall determine, based on budget projections, the amount of such reduction to ensure the following:



(A) That, for the 2010-11 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, equals five billion two hundred twenty-five million two hundred forty-four thousand eight hundred eighty-five dollars (\$5,225,244,885); except that, for the 2010-11 budget year, for the purpose of distributing moneys for certain programs for which the amount of per pupil funding is a component in the calculation of the total distribution amount, the provisions of subparagraph (VI) of this paragraph (g) shall apply.

(B) That, for the 2011-12 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the negative factor, is not less than five billion two hundred twenty-nine million five hundred sixty thousand three hundred forty-six dollars (\$5,229,560,346); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the 2011-12 budget year that is consistent with this sub-subparagraph (B).

(C) That, for the 2012-13 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the negative factor, is not less than five billion two hundred eighty-six million eight hundred ninety-eight thousand three hundred eighty-two dollars (\$5,286,898,382); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the 2012-13 budget year that is consistent with this sub-subparagraph (C).

(II) For the 2010-11 budget year and each budget year thereafter, the department of education shall:

(A) Calculate the negative factor for the applicable budget year by dividing the reduction in total program funding for the applicable budget year, as specified in subparagraph (I) of this paragraph (g), by the sum of the total program funding amounts of all districts as calculated pursuant to subsection (2) of this section, including the funding for institute charter schools, for the applicable budget year; and

(B) Calculate each district's and each institute charter school's reduction amount by multiplying the negative factor by the district's total program funding calculated pursuant to subsection (2) of this section for the applicable budget year for the district and for any institute charter school located within the district.

(III) For the 2010-11 budget year and each budget year thereafter, except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (g), a district's total program shall be the greater of:

(A) The amount calculated pursuant to subsection (2) of this section for the applicable budget year, including funding for any institute charter school located within the district, minus the district's reduction amount for the applicable budget year; or

(B) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year, multiplied by the district's funded pupil count for the applicable budget year.

(IV) For the 2010-11 budget year, and each budget year thereafter, the total program funding for a district that levies the number of mills calculated pursuant to section 22-54-106 (2) (a) (II) shall be the amount calculated pursuant to subsection (2) of this section for the applicable budget year. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2) (a) (II) to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace shall not exceed an amount equal to the district's reduction amount. The department shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subparagraph (IV) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(V) For the 2010-11 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2) (a) (I) and the district's reduction amount exceeds the district's state share of total program funding, such district's total program funding shall be the amount calculated pursuant to subsection (2) of this section for the applicable budget year, minus the district's state aid. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2) (a) (I) to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace shall not exceed an amount equal to the remainder of the district's reduction amount after the reduction to the district's total program has been applied pursuant to this subparagraph (V). The department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subparagraph (V) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(VI) For the 2010-11 budget year, two sources of federal moneys, totaling two hundred sixteen million three hundred fifty-eight thousand one hundred sixty-four dollars (\$216,358,164), have been made available to districts and are being allocated to districts by the department of education based on the formulas specified in subsection (2) of this section. Accordingly, the state's share of total program funding for all districts, including the funding for institute charter schools for the 2010-11 budget year, has been reduced by said amount as is reflected in the sum of total program funding for the 2010-11 budget year specified in sub-subparagraph (A) of subparagraph (I) of this paragraph (g). For the 2010-11 budget year, it is the general assembly's intent that the department of education calculate total program funding for the following purposes as if the state's share of total program funding for the 2010-11 budget year was not reduced as specified in this subparagraph (VI):

(A) Any distribution or allocation of moneys for which the amount of per pupil revenues or per pupil funding is a component in the calculation of the amount distributed or allocated;

(B) A district's on-line funding pursuant to paragraph (c) of subsection (4.5) of this section;

(C) A district's ASCENT program funding pursuant to subsection (4.7) of this section; and

(D) The amount of property tax revenue that a district is required to use to replace categorical program support funds pursuant to subparagraph (IV) or (V) of this paragraph (g).

(6) (a) Repealed.

(b) Notwithstanding the provisions of subsection (2) of this section, for the 1995-96 budget year and budget years thereafter, if a district's total formula per pupil funding for the applicable budget year is more than twenty-five percent greater than the district's prior year total per pupil funding, the total program for such district shall be calculated in accordance with the following formula:

District funded pupil count x District prior year total per pupil funding x 1.25.

(c) The definitions contained in section 22-54-104.3 shall be applicable to this subsection (6).

**Source:** **L. 94:** Entire article added with relocations, p. 782, § 2, effective April 27; (2)(b)(II)(B) amended, p. 1282, § 3, effective May 22. **L. 95:** (2)(a), (4)(b), and (5)(a) amended, p. 612, § 14, effective May 22. **L. 96:** (5)(c)(III) amended, p. 1, § 1, effective January 16; (2)(a)(III), (2)(a)(IV), and (5)(a)(III) added and (5)(c)(II) amended, pp. 1790, 1791, §§ 1, 2, 3, effective June 4; (5)(c)(II) amended and (5)(c)(IV) added, p. 63, § 19, effective July 1. **L. 97:** (2)(a)(IV), IP(2)(b), (2)(b)(II)(A), (4), (5)(b)(II), (5)(b)(III), and (5)(f) amended and (5)(a)(IV) added, pp. 578-580, §§ 1-3, 5, effective April 30. **L. 98:** (2)(a)(IV)(D), (5)(b)(I), and (5)(c)(II) amended and (5)(a)(V), (5)(b)(I.2), (5)(b)(I.3), and (5)(b)(IV) added, pp. 966, 964, 963, 969, §§ 9, 10, 4, 1, 11, effective May 27. **L. 99:** (2)(a)(III) and (2)(a)(IV)(C) amended and (2)(a)(III.5), (2)(a)(III.6), and (5)(a)(VI) added, pp. 178, 176, §§ 11, 1, effective March 30; (5)(b)(II) amended, p. 906, § 1, effective July



1. **L. 2000:** (2)(a)(IV)(D), (5)(b)(I.3)(A), (5)(c)(II)(B), and (5)(f) amended and (5)(a)(VII), (5)(b)(I.3)(C), (5)(b)(I.4), (5)(c)(II)(B.1) added, pp. 482, 483, 484, 485, 483, 484 §§ 1, 3, 5, 6, 2, 4, effective April 28; (5)(b)(I.3)(B) repealed, p. 1546, § 5, effective August 2. **L. 2001:** IP(2)(a)(III.5), (2)(a)(III.6), (4), and (5)(f)(II) amended and (2)(a)(III.7), (2)(a)(III.8), and (5)(a)(VIII) added, pp. 343, 339, §§ 5, 1, effective April 16. **L. 2002:** (2)(a)(III.7) and (2)(a)(III.8) amended, (2)(a)(IV) amended resulting in its renumbering as (2)(a.5), and (2)(a)(V), (2)(a)(VI), (4.5), and (5)(a)(IX) added, pp. 1734, 1735, §§ 3, 4, 5, effective June 7. **L. 2003:** (2)(a)(VI) and (2)(a.5) repealed, IP(2)(b), (2)(b)(II)(A), (4), (4.5)(b), (5)(b)(I.4), and (5)(c)(III) amended, and (3.5), (5)(a)(X), and (5)(b)(I.5) added, pp. 2120, 2139, 2121, 2122, §§ 6, 41, 7, 8, 10, 11, 9, effective May 22. **L. 2004:** IP(2)(a)(V), IP(2)(b), (2)(b)(II)(A), (4), (5)(c)(II)(B.1), and (5)(f) amended and (2)(a)(VII) and (5)(a)(XI) added, pp. 1387, 1388, 1390, 1389, §§ 3, 4, 6, 5, effective May 28; (1) amended, p. 1638, § 43, effective July 1. **L. 2005:** (2)(b)(II)(A), (4), and (5)(f) amended and (5)(a)(XII) added, pp. 431, 430, §§ 3, 1, effective April 29. **L. 2006:** (5)(a)(XIII) added, p. 660, § 1, effective April 28; (2)(a)(I) to (2)(a)(III), (2)(a)(III.5) to (2)(a)(III.7), (2)(a)(V), (4)(a)(II), (4)(b)(II), (4.5)(a), (5)(a)(I) to (5)(a)(XI), (5)(b)(I), (5)(b)(I.2) to (5)(b)(I.4), (5)(c)(II)(A), (5)(c)(II)(B), and (6)(a) repealed and (2)(b)(II)(A) and (5)(f) amended, pp. 612, 618, §§ 44, 42, effective August 7. **L. 2007:** IP(2)(a)(VII), (3.5), and (4.5) amended, (2)(a)(VIII) and (5)(a)(XIV) added, and (5)(a)(XII) repealed, pp. 734, 733, 745, §§ 3, 1, 28, effective May 9. **L. 2008:** (3.5)(d)(II)(A) amended and (5)(a)(XV) added, pp. 1218, 1194, §§ 33, 2, effective May 22. **L. 2009:** (5)(a)(XV) amended, (SB 09-215), ch. 134, p. 578, § 1, effective April 17; IP(2)(a)(VIII) and (3.5)(d)(II)(A) amended and (2)(a)(IX), (3.5)(d)(III), and (4.7) added, (HB 09-1319), ch. 286, pp. 1319, 1320, §§ 7, 8, 9, effective May 21; (5)(a)(XVI) added, (SB 09-256), ch. 294, p. 1548, § 1, effective May 21. **L. 2010:** IP(2)(a)(IX), (4.5)(c), and (4.7) amended and (5)(a)(XVII) and (5)(g) added, (HB 10-1369), ch. 246, pp. 1095, 1097, §§ 2, 4, 1, 3, effective May 21. **L. 2011:** (5)(g)(I) amended and (5)(g)(VI) added, (SB 11-157), ch. 10, p. 21, § 2, effective March 9; (4.5)(c)(III), (4.7)(c), IP(5)(g)(I), (5)(g)(I)(B), (5)(g)(II), (5)(g)(III), (5)(g)(IV), and (5)(g)(V) amended and (5)(a)(XVIII) added, (SB 11-230), ch. 305, pp. 1468, 1469, 1464, 1465, §§ 12, 13, 3, 4, 2, effective June 9. **L. 2012:** (5)(g)(I)(B) amended and (5)(g)(I)(C) added, (HB 12-1201), ch. 3, p. 4, § 2, effective March 1; (5)(a)(XIX) added and (5)(g)(I)(C) amended, (HB 12-1345), ch. 188, p. 715, § 1, effective May 19.

**Editor's note:** (1) Amendments to subsection (5)(c)(II) in House Bill 96-1354 and House Bill 96-1012 were harmonized.

(2) Subsection (5)(b)(II)(B) provided for the repeal of subsection (5)(b)(II)(B), effective July 1, 2001. (See L. 99, p. 906.)

(3) Subsection (2)(a)(IV) was amended by section 3 of chapter 335, Session Laws of Colorado 2002, resulting in the relocation of said subsection to subsection (2)(a.5) to reorganize the section to accommodate future amendments to the provisions relating to a school district's minimum total program funding.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3.5)(d)(II)(A) and enacting subsection (5)(a)(XV), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in the 2011 act amending subsections (4.5)(c)(III), (4.7)(c), IP(5)(g)(I), (5)(g)(I)(B), (5)(g)(II), (5)(g)(III), (5)(g)(IV), and (5)(g)(V) and adding subsection (5)(a)(XVIII), see section 1 of chapter 305, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (5)(g)(I)(B) and adding subsection (5)(g)(I)(C), see section 1 of chapter 3, Session Laws of Colorado 2012.

**22-54-104.1. General fund appropriations requirements - maintenance of effort base.** (1) (a) In accordance with section 17 (5) of article IX of the state constitution, for state fiscal years 2001-02 through 2010-11, the general assembly shall annually appropriate from the general fund for total program under the provisions of this article an amount equal to the maintenance of effort base plus an amount as determined annually by the general assembly that is equal to at least five percent of the maintenance of effort base, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(b) The determination of whether the requirements of this subsection (1) apply in any given state fiscal year shall be made in accordance with section 22-55-105 (1) (b).

(2) For purposes of this section, "maintenance of effort base" means the aggregate amount of general fund appropriations for total program pursuant to the provisions of this article for the immediately preceding state fiscal year, including any increases or decreases made to said appropriations through the enactment of a supplemental appropriation bill or bills for that state fiscal year.

(3) Repealed.

(4) and (5) (Deleted by amendment, L. 2003, pp. 10, 520, §§ 1, 10, effective March 5, 2003.)

**Source:** L. 2001: Entire section added, p. 345, § 8, effective April 16. L. 2002: (3) amended and (4) added, p. 163, § 1, effective March 27; (5) added, p. 1732, § 1, effective June 7. L. 2003: (1), (4), and (5) amended, p. 10, § 1, effective March 5; (1), (4), and (5) amended, p. 520, § 10, effective March 5. L. 2005: (1) amended, p. 1350, § 2, effective June 3. L. 2006: (3) repealed, p. 619, § 43, effective August 7. L. 2010: (2) amended, (HB 10-1013), ch. 399, p. 1902, § 11, effective June 10.

**22-54-104.2. Legislative declaration.** (1) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, the expansion of the definition of "at-risk pupils", as defined in section 22-54-103 (1.5) (a) (V), to include district pupils with limited English proficiency, as defined in section 22-54-103 (1.5) (b) (IV), the increase in the at-risk factor pursuant to section 22-54-104 (5) (f) (II) for districts whose percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and whose funded pupil count is greater than fifty thousand, the requirement that districts that receive at-risk funding spend a portion of their at-risk funding on implementation of the district's English language-proficiency program pursuant to section 22-54-105 (3) (b) (I) and the increase in the at-risk factor from 11.2% to 12% for the 2005-06 budget year and each budget year thereafter pursuant to section 22-54-104 (2) (b) (II) (A) and (5) (f) are important elements of accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the enactment of the definition of "at-risk funded pupil count", as defined in section 22-54-103 (1), to allow up to three-year averaging of the number of at-risk pupils, is an important element of accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the requirement that school districts provide educational services to juveniles pursuant to section 22-32-141 and that the school districts receive reimbursement for providing the services pursuant to section 22-54-114 (4) (b), is part of providing accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 2001: Entire section added, p. 344, § 6, effective April 16. L. 2005: (1) amended, p. 432, § 4, effective April 29. L. 2006: (1) amended, p. 619, § 44, effective August 7. L. 2010: (1) amended, (SB 10-062), ch. 168, p. 596, § 14, effective April 29. L. 2012: (3) added, (HB 12-1238), ch. 180, p. 674, § 23, effective July 1.

### **22-54-104.3. Total program for budget years - special provisions.**

(1) and (2) Repealed.

(2.5) and (2.6) Repealed.

(2.7) (a) For the 1997-98 budget year and budget years thereafter, notwithstanding the provisions of section 22-54-104 (2) and (6), a district's total program for the applicable



budget year shall not exceed the district's total program for the prior budget year multiplied by 100% plus the district's maximum annual percentage change in the applicable fiscal year spending.

(b) For purposes of this subsection (2.7), "maximum annual percentage change in the applicable fiscal year spending" means the percentage change in fiscal year spending allowed by section 20 of article X of the state constitution based upon the definition of inflation found in said section 20 and based upon the definition of local growth as the percentage change between the district's funded pupil count during the immediately preceding October and the district's current year October funded pupil count.

(c) Repealed.

(d) (I) For the 1998-99 budget year and budget years thereafter, if a district's total program is calculated pursuant to paragraph (a) of this subsection (2.7) and the district is capable of receiving an increase in its total program within the limitations on its fiscal year spending for the applicable budget year under section 20 of article X of the state constitution, the district may certify to the department that it may receive an additional increase in its total program for the applicable budget year in an amount equal to the lesser of:

(A) The difference between the district's total program for the applicable budget year calculated pursuant to paragraph (a) of this subsection (2.7) and the district's total program for the applicable budget year calculated pursuant to section 22-54-104 (2) or (6); or

(B) The difference between the district's total program for the applicable budget year calculated pursuant to paragraph (a) of this subsection (2.7) and the district's allowable fiscal year spending for the applicable budget year under section 20 of article X of the state constitution.

(II) Each district eligible for an increase pursuant to this paragraph (d) shall certify to the department the exact dollar amount of increase that the district can accept. Such certification shall be submitted no later than December 1 of the applicable budget year and must be reviewed and approved by an auditor for the district.

(3) Notwithstanding the provisions of section 22-54-104 (2), for the 1994-95 budget year, if a district's 1994-95 total formula per pupil funding is less than the district's 1993-94 total per pupil funding, the total program for such district shall be calculated in accordance with the following formula:

(a) If the district's 1994-95 funded pupil count is equal to or less than the district's 1993-94 funded pupil count, the formula shall be:

District 1993-94 funded pupil count x District 1993-94 total per pupil funding.

(b) If the district's 1994-95 funded pupil count is greater than the district's 1993-94 funded pupil count, the formula shall be:

District 1993-94 total funding + ((District 1994-95 funded pupil count - District 1993-94 funded pupil count) x District 1994-95 total formula per pupil funding).

(4) (Deleted by amendment, L. 95, p. 613, § 15, effective May 22, 1995.)

(5) For purposes of subsection (3) of this section and section 22-54-104 (6):

(a) to (d) Repealed.

(e) A district's "prior year total per pupil funding" means the amount which results from dividing the district's prior year total program by the district's prior year funded pupil count.

(f) A district's "total formula per pupil funding" means the total program for a district for the applicable budget year, as calculated pursuant to section 22-54-104 (2), divided by the district's funded pupil count for the applicable budget year.

(g) (Deleted by amendment, L. 95, p. 613, § 15, effective May 22, 1995.)

(6) Repealed.

**Source: L. 94:** Entire article added with relocations, p. 786, § 2, effective April 27; IP(1) amended, p. 1282, § 4, effective May 22. **L. 95:** (4), IP(5), and (5)(g) amended and (2.5), (2.7), and (6) added, p. 613, § 15, effective May 22. **L. 96:** (2.6) added and (2.7)(a)

amended, p. 1791, § 4, effective June 4. **L. 97:** (2.7) amended, p. 592, § 29, effective April 30. **L. 98:** (2.7)(d) added, p. 964, § 5, effective May 27. **L. 2006:** (1), (2), (2.5), (2.6), (2.7)(c), (5)(a) to (5)(d), and (6) repealed, p. 620, § 45, effective August 7.

#### **22-54-104.5. School finance study. (Repealed)**

**Source:** **L. 94:** Entire article added with relocations, p. 789, § 2, effective April 27. **L. 96:** Entire section repealed, p. 1235, § 72, effective August 7.

**22-54-105. Instructional supplies and materials - capital reserve and insurance reserve - at-risk funding - preschool funding.** (1) (a) Prior to the 2009-10 budget year, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (1) to be allocated, in the discretion of the board of education, to the instructional supplies and materials account, the instructional capital outlay account, or the other instructional purposes account in the general fund created by section 22-45-103 (1) (a) (II), or among such accounts. Moneys may be transferred among the three accounts. The moneys in such accounts shall be used for the purposes set forth in section 22-45-103 (1) (a) (II) and may not be expended by the district for any other purpose. Any moneys in such accounts which are not projected to be expended during a budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (a) (II) in the next budget year. Nothing in this subsection (1) shall be construed to require that interest on moneys in such accounts be specifically allocated to such accounts. Any moneys remaining in any such account that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (a) (II) in the 2009-10 budget year or any budget year thereafter.

(b) (I) The amount to be budgeted in any budget year prior to the 2009-10 budget year shall be the amount determined by multiplying one hundred thirty-four dollars by the district's funded pupil count minus the district's on-line pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) Repealed.

(IV) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(c) For purposes of this subsection (1), instructional supplies and materials include, but are not limited to, supplies, textbooks, library books, periodicals, and other supplies and materials. Instructional capital outlay includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have benefits for more than one year. Other instructional purposes include expenses incurred in providing transportation for pupils to and from school-sponsored instructional activities which occur outside the classroom and costs incurred for repair or maintenance services for equipment which is directly used for instructional purposes. Instructional supplies and materials, instructional capital outlay, and other instructional purposes are limited to those functions accounts and objects accounts as prescribed by the state board of education.

(d) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(2) (a) Except as otherwise provided in paragraph (c) of this subsection (2), prior to the 2009-10 budget year, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (2) to be allocated, in the discretion of the board of education, to the capital reserve fund created by section 22-45-103 (1) (c), to a fund or an



account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds and accounts. Such moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the district for any other purpose. The board of education may transfer moneys among these allowable funds and accounts when such transfer is deemed necessary by the board. Any moneys remaining in any such fund or account that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) in the 2009-10 budget year or any budget year thereafter.

(b) (I) The amount to be budgeted in any budget year prior to the 2009-10 budget year shall be the amount determined by multiplying two hundred sixteen dollars by the district's funded pupil count minus the district's on-line pupil enrollment. Such amount shall be the minimum required to be budgeted, and the district may elect to budget up to eight hundred dollars multiplied by the district's funded pupil count minus the district's on-line pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) For the 2000-01 budget year through the 2008-09 budget year, the amount required to be budgeted pursuant to this paragraph (b) shall be reduced by an amount determined by multiplying the minimum dollar amount required to be budgeted for that budget year pursuant to subparagraph (II) of this paragraph (b) by the number of pupils enrolled in charter schools within the district.

(c) For the 1999-2000 budget year and any budget year thereafter, if a district has moneys in its capital reserve fund equal to or in excess of five times the minimum dollar amount required to be budgeted per pupil pursuant to paragraph (b) of this subsection (2) multiplied by the district's funded pupil count minus the district's on-line pupil enrollment for the applicable budget year, the board of education of the district may determine whether to budget the minimum dollar amount per pupil required by this subsection (2) in that budget year, budget a lesser amount, or budget no amount at all. Such determination shall be made by the board of education on an annual basis based upon the capital outlay expenditure requirements of the district.

(d) Repealed.

(e) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(3) (a) For the 1997-98 budget year and budget years thereafter, every district that receives at-risk funding pursuant to the provisions of section 22-54-104 shall expend in total at least seventy-five percent of the district's at-risk funding on direct instruction or staff development, or both, for the educational program of at-risk pupils in the district.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (3), for the 2001-02 budget year and budget years thereafter, any district that receives at-risk funding pursuant to section 22-54-104 and qualifies for a higher at-risk factor as provided in section 22-54-104 (5) (f) (II) shall expend an amount calculated pursuant to subparagraph (II) of this paragraph (b) on implementation of the district's English language proficiency program as provided in article 24 of this title. It is the intent of the general assembly that each school district expend said amount on English language proficiency programs that are either taught in English or that are designed to move students as quickly as possible into programs taught in English. The district shall expend at least seventy-five percent of the remaining amount of at-risk funding received on direct instruction or staff development, or both, for the educational program of at-risk pupils in the district.

(II) The amount of at-risk funding expended pursuant to subparagraph (I) of this paragraph (b) shall be equal to the difference between the amount of at-risk funding generated by an increase in the at-risk factor of 0.36 of a percentage point versus an increase of 0.34 of a percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils.

(c) and (d) Repealed.

(4) (Deleted by amendment, L. 2008, p. 1195, § 6, effective May 22, 2008.)

**Source:** **L. 94:** Entire article added with relocations, p. 789, § 2, effective April 27. **L. 95:** (1)(b) amended, p. 619, § 20, effective May 22. **L. 96:** (1)(b), (1)(c), and (2)(b) amended, p. 1792, § 5, effective June 4. **L. 97:** (1)(b), (1)(c), (2)(a), and (2)(b) amended and (3) added, pp. 580, 583, §§ 4, 9, 10, effective April 30. **L. 98:** (1)(c) amended, p. 969, § 12, effective May 27. **L. 99:** (2)(a) amended and (2)(c) added, p. 179, § 12, effective March 30; (2)(b)(III) added, p. 174, § 2, effective March 30. **L. 2001:** (3) amended, p. 351, § 15, effective April 16; (4) added, p. 558, § 1, effective May 23; (1)(b)(III) added, p. 564, § 1, effective May 29. **L. 2002:** (1)(b)(I), (1)(b)(III), (2)(b)(I), and (2)(c) amended and (2)(d) added, p. 1736, § 6, effective June 7. **L. 2003:** (1)(b)(III)(A) and (1)(b)(III)(C) amended and (2)(d) repealed, pp. 516, 522, §§ 5, 15, effective March 5; (1)(b)(II), (2)(b)(II), (3)(c), and (4) amended and (3)(d) repealed, pp. 2123, 2141, §§ 12, 47, effective May 22. **L. 2006:** (1)(b)(IV) added and (4) amended, pp. 660, 699, §§ 2, 43, effective April 28; (1)(b)(II)(B), (2)(b)(II)(B), and (3)(c) repealed, p. 624, § 46, effective August 7. **L. 2007:** (2)(e) added, p. 735, § 4, effective May 9. **L. 2008:** (1)(b)(II)(A), (2)(b)(II)(A), and (4) amended, p. 1195, § 6, effective May 22. **L. 2009:** (1) and (2) amended, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21.

**Editor's note:** Subsection (1)(b)(III)(E) provided for the repeal of subsection (1)(b)(III), effective July 1, 2003. (See L. 2001, p. 564.)

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1)(b)(II)(A), (2)(b)(II)(A), and (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-106. Local and state shares of district total program.** (1) (a) (I) Every district shall levy the number of mills determined pursuant to paragraph (a) of subsection (2) of this section, and the amount of property tax revenue which the district is entitled to receive from the levy, assuming one hundred percent collection, along with the amount of specific ownership tax revenue paid to the district, as defined in section 22-54-103 (11), shall be the district's share of its total program.

(II) Repealed.

(b) (I) Except as provided in subsections (11) and (12) of this section, the state's share of a district's total program is the difference between the district's total program and the district's share of its total program; except that, unless otherwise provided by subparagraph (II) of this paragraph (b), no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act based upon the amount of school lands and mineral lease moneys received pursuant to article 41 of this title and section 34-63-102, C.R.S., multiplied by the district's funded pupil count.

(II) (A) For the 2010-11 budget year through the 2014-15 budget year, the requirement that no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act as specified in subparagraph (I) of this paragraph (b) shall not apply to any district.

(B) On or before January 15, 2015, the department of education shall submit a report to the joint budget committee of the general assembly and to the education committees of the senate and the house of representatives, or any successor committees, regarding the estimated fiscal impact of and the potential number of districts that will be impacted by restoring the requirement, in the 2015-16 budget year, that no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act as specified in subparagraph (I) of this paragraph (b).



(2) (a) Except as provided in paragraph (c) of this subsection (2), for reorganized districts, for the 2007 property tax year and property tax years thereafter, each district shall levy the lesser of:

(I) The number of mills levied by the district for the immediately preceding property tax year;

(II) (A) Subject to the provisions of sub-subparagraph (B) of this subparagraph (II), the number of mills that will generate property tax revenue in an amount equal to the district's total program for the applicable budget year minus the district's minimum state aid, if applicable for that budget year, and minus the amount of specific ownership tax revenue paid to the district.

(B) Regardless of the applicability of section 22-54-104 (5) (g), for the purposes of this subparagraph (II), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(III) For a district that has not obtained voter approval to retain and spend revenues in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution, the number of mills that may be levied by the district under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution. In the calculation of local growth for purposes of determining the property tax revenue limitation imposed on a district under this subparagraph (III), a district's student enrollment shall be the district's funded pupil count.

(IV) Repealed.

(V) Twenty-seven mills.

(b) (I) (A) If a district's total program for the 1994-95 budget year was calculated pursuant to section 22-54-104.3, for the 1995 property tax year, the levy calculated pursuant to paragraph (a) of this subsection (2) shall be reduced by the number of mills required to generate the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2). The amount by which property tax revenue is reduced pursuant to this paragraph (b) shall be counted toward the limitation on additional local revenues as provided in section 22-54-108 (3).

(B) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (I), if the mill levy was calculated pursuant to subparagraph (II) of paragraph (a) of this subsection (2), the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2), shall be added to the total program as calculated pursuant to section 22-54-104 (2) to calculate the levy pursuant to this subparagraph (I).

(II) If after calculating the mill levy pursuant to subparagraph (I) of this paragraph (b) the district's levy exceeds 41.75 mills, the district shall levy 41.75 mills.

(III) For the 1995-96 budget year, if the amount of property tax generated for the 1994-95 budget year by the number of mills by which the mills levied by the district for the 1994-95 budget year exceeded 40.080 mills was equal to or exceeded the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2), the district may levy the difference between the levy pursuant to subparagraph (I) and subparagraph (II) of this paragraph (b). For the 1996-97 budget year and budget years thereafter, the district may continue to impose a mill levy that will generate the amount of revenue produced by the calculation described in this subparagraph (III) for the 1995-96 budget year. The amount of property tax generated pursuant to this subparagraph (III) shall be counted toward the limitation on additional local revenues as provided in section 22-54-108 (3) (f).

(c) (I) Notwithstanding any other provision of this subsection (2), if there is a reorganization pursuant to article 30 of this title, except for a detachment and annexation, and if such reorganization involves districts with differing mill levies, then in its first year of operation, the new district shall levy a number of mills that is based on the total property taxes collected in the preceding year from property included within the new district divided by the total valuation for assessment in the preceding year of property located within the

new district but in no event more than 41.75 mills. This paragraph (c) shall not apply to any new district whose levy would otherwise be calculated pursuant to subparagraph (II) of paragraph (a) of this subsection (2).

(II) If there is a detachment and annexation pursuant to article 30 of this title and if such detachment and annexation involves districts with differing mill levies, then in the first year after the detachment and annexation, the annexing district shall calculate its levy pursuant to paragraph (a) of this subsection (2).

(3) The property tax revenue which a district is entitled to receive from the levy made pursuant to subsection (2) of this section for the 1994 property tax year and property tax years thereafter shall be used to fund the district's share of its total program for the budget year beginning on July 1 of such property tax year, and the total amount of such revenue shall be considered to be collected during such budget year for purposes of determining the state's share of the district's total program.

(4) (a) The general assembly shall make annual appropriations to fund the state's share of the total program of all districts and to fund all institute charter schools.

(b) In the event that the appropriation for the state's share of the total program of all districts, including funding for institute charter schools, under this article for any budget year, as established in the general appropriation act, is not sufficient to fully fund the state's share including funding for institute charter schools, the department of education shall submit a request for a supplemental appropriation in an amount which will fully fund the state's share including funding for institute charter schools. Such request shall be made to the general assembly during the fiscal year in which such underfunding occurs.

(c) If a supplemental appropriation is not made by the general assembly to fully fund the state's share of the total program of all districts including funding for institute charter schools or a supplemental appropriation is made to reduce the state's share of the total program of all districts including funding for institute charter schools, the state aid of each district and the funding for each institute charter school shall be reduced in accordance with the provisions of this paragraph (c). The total program of each district that receives state aid shall be reduced by a percentage determined by dividing the deficit in the appropriation or the reduction in the appropriation, whichever is applicable, by the total program of all districts that receive state aid. The state aid of each district shall be reduced by the amount of the reduction in the district's total program or the amount of state aid, whichever is less, even if, for the 2009-10 budget year or any budget year thereafter, the reduction would result in a district receiving less state aid than the amount of minimum state aid for each district as determined by the general assembly for the applicable budget year. The funding for each institute charter school shall be reduced in proportion to the reduction in the total program of the district from which the institute charter school's funding is withheld. The department of education shall see that the reduction in state aid required by this paragraph (c) is accomplished prior to the end of the budget year.

(d) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10, 2010.)

(5) (a) Except as otherwise provided in sections 22-54-107, 22-54-108, and 22-54-108.5, no district may certify a levy for its general fund in excess of that authorized by this section.

(b) No district is authorized to seek voter approval to impose additional mill levies for its general fund in excess of that authorized by this section and sections 22-54-107, 22-54-108, and 22-54-108.5. Therefore, voter approval obtained by any district in order to be capable of receiving additional revenues within the limitations on the district's fiscal year spending for any budget year under section 20 of article X of the state constitution does not constitute voter approval for such district to certify a levy for its general fund in excess of that authorized by this section and sections 22-54-107, 22-54-108, and 22-54-108.5.

(6) If a district does not certify at least the mill levy required by subsection (2) of this section, the department shall determine what the state's percentage share of the district's total program would have been had the district certified the required mill levy. The department of education shall reduce the district's state aid in an amount which will result in the state's percentage share of the district's total program remaining the same as if the district had certified the required mill levy.



(7) For the 1994 property tax year and property tax years thereafter, all mill levies authorized or required by this section or sections 22-54-107, 22-54-108, and 22-54-108.5 shall be rounded to the nearest one-thousandth of one mill.

(8) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10, 2010.)

(9) If a district reduces or ends business personal property taxes through action taken pursuant to section 20 (8) (b) of article X of the state constitution, the state's share of the district's total program for the budget year in which such action is taken and any budget year thereafter shall be the amount by which the district's total program exceeds the amount of specific ownership tax revenue paid to the district and the amount of property tax revenue which the district would have been entitled to receive if such action had not been taken by the district.

(10) (a) If a new district is created through a deconsolidation as described in section 22-30-102 (2) (a), the specific ownership tax revenue payable to the new district in the first year of operation shall be an amount equal to the ratio of the total valuation for assessment of taxable property located in the new district to the total valuation for assessment of taxable property located in the old district multiplied by the specific ownership tax revenue payable to the old district.

(b) Commencing with the first July specific ownership tax payment due after the new district is established and continuing until the new district receives its first payment of specific ownership tax revenues from the county treasurer, the department of education shall:

(I) Increase the state's share of the new district's total program by an amount equal to the ratio of the total valuation for assessment of taxable property located in the new district to the total valuation for assessment of taxable property located in the old district multiplied by the specific ownership tax revenue payable to the old district; and

(II) Reduce the state's share of the old district's total program by the same amount.

(11) Pursuant to the provisions of section 22-54-115, for each institute charter school, the department of education shall withhold from the state share of the institute charter school's accounting district the lesser of:

(a) An amount equal to one hundred percent of the adjusted district per pupil revenues, as defined in section 22-30.5-513 (1) (b), multiplied by the number of pupils enrolled in the institute charter school who are not on-line pupils plus one hundred percent of the district per pupil on-line funding multiplied by the number of on-line pupils enrolled in the institute charter school; or

(b) The total amount of the state share payable to the district.

(12) Any district that has obtained voter approval to retain and spend revenues in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution and that, after March 16, 2009, obtains voter approval to again become subject to such property tax revenue limitation shall receive an amount of state aid that shall be calculated as if the district levied the number of mills that it would have levied in the applicable budget year had the district maintained its authority to retain and spend revenues in excess of such property tax revenue limitation.

**Source:** L. 94: Entire article added with relocations, p. 791, § 2, effective April 27; (8)(a) amended and (8)(d) added, p. 2832, § 2, effective January 1, 1995. L. 95: (1)(a)(I) and (2) amended, p. 617, § 18, effective May 22. L. 96: (1)(a)(I), (2)(a)(IV), (2)(b)(III), and (5) amended, pp. 1793, 1798, §§ 6, 17, effective June 4; (2)(a) amended and (2)(c) and (10) added, pp. 64, 65, §§ 20, 21, effective July 1. L. 97: (5) amended, p. 581, § 6, effective April 30. L. 2000: (5) amended, p. 485, § 7, effective April 28. L. 2003: (8)(a) amended, p. 2138, § 37, effective May 22. L. 2004: (1)(b) and (4) amended and (11) added, p. 1638, § 44, effective July 1. L. 2005: (4)(d) and (8)(e) added, p. 439, §§ 16, 17, effective April 29. L. 2006: (1)(a)(II) and (2)(a)(IV) repealed, p. 625, § 47, effective August 7. L. 2007: (5) and (7) amended, p. 39, § 7, effective March 7; (2)(a) amended, p. 736, § 5, effective May 9. L. 2009: (1)(b) amended and (12) added, (SB 09-291), ch. 368, p. 1936, § 1, effective June 1. L. 2010: (1)(b) and (4)(c) amended, (HB 10-1318), ch. 34, p. 126, § 1, effective March 22; (2)(a)(II) amended, (HB 10-1369), ch. 246, p. 1099, § 5,

effective May 21; (1)(b), (4)(d), and (8) amended, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10. **L. 2011:** (1)(b)(I) amended, (SB 11-238), ch. 300, p. 1446, § 2, effective June 8.

**Editor's note:** Amendments to subsection (1)(b) by House Bill 10-1318 and House Bill 10-1013 were harmonized.

**22-54-106.5. Fiscal emergency restricted reserve - calculation of reserve amount.**

(1) For the 2009-10 budget year, the general assembly determines that a state financial crisis requires each district and the state charter school institute to budget an amount to a fiscal emergency restricted reserve pursuant to section 22-44-119. Using the total amount to be budgeted for the reserve as specified in subsection (3) of this section, the department of education shall calculate the amount to be budgeted to the fiscal emergency restricted reserve by each district and the state charter school institute. The amount budgeted by each district and the state charter school institute shall be released for expenditure by the district or for distribution to institute charter schools by the state charter school institute, as applicable, on January 29, 2010, if a negative supplemental appropriation to effect a rescission of the total amount of restricted reserve as specified in subsection (3) of this section, or any portion thereof, has not been enacted and become law by said date.

(2) The department of education shall calculate the amount to be budgeted to the fiscal emergency restricted reserve for the 2009-10 budget year by dividing the total amount to be budgeted for the 2009-10 budget year, as specified in subsection (3) of this section, by the sum of the total program of all districts and institute charter school funding. The department shall calculate the amount to be budgeted by each district as an amount equal to the total restricted reserve multiplied by the district's total program as calculated pursuant to section 22-54-104 (2) (a) (VIII) or (2) (b), whichever is applicable. The department shall calculate the amount to be budgeted by the state charter school institute for each institute charter school based on the total restricted reserve multiplied by the total program of the accounting district for each institute charter school.

(3) For the 2009-10 budget year, the total amount of the restricted reserve shall be one hundred ten million dollars.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1551, § 4, effective May 21.

**22-54-107. Buy-out of categorical programs.** (1) If a district levies the number of mills calculated pursuant to section 22-54-106 (2) (a) (II), the district shall make an additional levy to generate property tax revenue in an amount equal to the amount of categorical support funds; except that the total of the two levies cannot exceed the lesser of the district's levy for the immediately preceding year, the district's allowable levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution if the district has not obtained voter approval to retain and spend revenues in excess of such property tax revenue limitation, or twenty-seven mills.

(2) When a district receives property tax revenue from the additional levy made pursuant to subsection (1) of this section or when a district has elected to keep excess property tax revenue collected during the 1992 calendar year pursuant to the provisions of section 22-44-103.5 (2) (b) (III) (C) or (2) (c) (III), such property tax revenue shall be used to replace, on a pro rata basis, any categorical program support funds that such district would otherwise be eligible to receive from the state. The amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of this subsection (2) shall be used to make payments of categorical program support funds to eligible districts, and, in the event that the appropriations for categorical programs are less than the total categorical program support funds to which districts are entitled under applicable provisions of law, such funds shall be applied to categorical programs in the following order:

(a) First, transportation aid pursuant to article 51 of this title;



(b) Second, funds pursuant to the “English Language Proficiency Act”, article 24 of this title;

(c) Third, small attendance center aid pursuant to section 22-54-122; and

(d) Fourth, funds pursuant to the “Exceptional Children’s Educational Act”, article 20 of this title.

(3) For purposes of this section, “categorical program support funds that the district would otherwise be eligible to receive from the state” means amounts that the district would have received from the state but that will be received instead from property tax revenues by reason of this section and includes funds pursuant to the “Exceptional Children’s Educational Act”, article 20 of this title, funds pursuant to the “English Language Proficiency Act”, article 24 of this title, transportation aid pursuant to article 51 of this title, small attendance center aid pursuant to section 22-54-122, and vocational education aid pursuant to article 8 of title 23, C.R.S. Funds received by an administrative unit under the “Exceptional Children’s Educational Act”, article 20 of this title, as reimbursement for services provided to children counted in the pupil enrollment of a district shall be considered as funds that a district would otherwise be eligible to receive for purposes of this subsection (3).

(4) In a budget year in which the provisions of section 22-54-104 (5) (g) apply, the department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of section 22-54-104 (5) (g) (IV) and (5) (g) (V) to make payments of categorical program support funds to eligible districts as specified in subsection (2) of this section.

**Source:** **L. 94:** Entire article added with relocations, p. 793, § 2, effective April 27. **L. 95:** (1) amended, p. 619, § 19, effective May 22. **L. 98:** (2) and (3) amended, p. 971, § 14, effective May 27. **L. 2007:** (1) amended, p. 736, § 6, effective May 9. **L. 2010:** (4) added, (HB 10-1369), ch. 246, p. 1099, § 6, effective May 21.

**22-54-107.5. Authorization of additional local revenues for supplemental cost of living adjustment.** (1) Except as otherwise provided in subsection (6) of this section, notwithstanding any law to the contrary, effective July 1, 2001, any district that desires to raise and expend local property tax revenues in excess of the district’s total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, subject to the limitations of paragraph (a) of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide a supplemental cost of living adjustment for the district for the then current budget year and each budget year thereafter. The question authorized by this subsection (1) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(2) Except as otherwise provided in subsection (6) of this section, notwithstanding any law to the contrary, effective July 1, 2001, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district’s total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, subject to the limitations of paragraph (a) of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide a supplemental cost of living adjustment for the district for the then current budget year and each budget year thereafter. The question authorized by this subsection (2) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this subsection (2) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(3) (a) The maximum dollar amount of property tax revenue that a district can generate pursuant to this section for any given budget year shall not exceed the difference between

what would be the district's total program for the 2001-02 budget year if calculated using the district's adjusted cost of living factor for the 2001-02 budget year and the district's total program for the 2001-02 budget year calculated pursuant to section 22-54-104.

(b) For purposes of determining a district's total program for the 2001-02 budget year if calculated using the district's adjusted cost of living factor, "per pupil funding" under section 22-54-104 (2) (a.5) (IV), as said section existed prior to its repeal in 2003, shall be calculated using the size factor used in the calculation for the prior budget year or the size factor used in the calculation for the 2001-02 budget year, whichever is less, the cost of living factor for the prior budget year, and the at-risk factor calculated for the district using a base at-risk factor of eleven and one-half percent.

(c) For purposes of this subsection (3), "adjusted cost of living factor" means the district's cost of living factor determined by dividing the district's cost of living amount by the lowest cost of living amount of all districts in the state from the current cost of living study, rounded to the nearest one-thousandth of one percent.

(4) If the maximum dollar amount of property tax revenue allowed for any given budget year pursuant to paragraph (a) of subsection (3) of this section will not be generated by the levy of the total number of mills levied by the district pursuant to this section for the immediately preceding budget year, the total number of mills levied by the district pursuant to this section shall not be increased unless the district submits the question of the increase to the eligible electors in the manner provided in subsection (1) of this section or unless the question of the increase is submitted to the eligible electors by initiative in the manner provided in subsection (2) of this section.

(5) Notwithstanding the provisions of section 20 of article X of the state constitution which allow districts to seek voter approval for spending and revenue increases, the provisions of subsection (3) of this section shall limit a district's authority to raise and expend local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(6) On and after June 7, 2002, no question shall be submitted to the eligible electors of a district pursuant to subsection (1) or (2) of this section.

**Source: L. 2001:** Entire section added, p. 364, § 34, effective April 16. **L. 2002:** (1), (2), (3)(a), and (3)(b) amended and (6) added, p. 1740, § 13, effective June 7. **L. 2004:** (3)(b) amended, p. 1199, § 56, effective August 4.

**22-54-108. Authorization of additional local revenues.** (1) Effective July 1, 1994, a district which desires to raise and expend local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, subject to the limitations of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under section 22-54-106 for the district's general fund for the then current budget year and each budget year thereafter. The question authorized by this subsection (1) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(2) Effective July 1, 1994, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104, subject to the limitations of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under section 22-54-106 for the district's general fund for the then current budget year and each budget year thereafter. The question authorized by this subsection (2) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this subsection (2) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(3) (a) Notwithstanding the provisions of section 20 of article X of the state constitution which allow districts to seek voter approval for spending and revenue increases, the provisions of this subsection (3) shall limit a district's authority to raise and expend local



property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(b) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (b), the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater.

(II) (A) Effective July 1, 2002, and subject to the provisions of sub-subparagraph (B) of this subparagraph (II), the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(B) Regardless of the applicability of section 22-54-104 (5) (g), for the purposes of this subparagraph (II), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(III) (A) On and after May 21, 2009, and subject to the provisions of sub-subparagraph (B) of this subparagraph (III), the total additional local property tax revenues that may be received pursuant to an election held pursuant to this section shall not exceed under any circumstances twenty-five percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(B) Regardless of the applicability of section 22-54-104 (5) (g), for purposes of this subparagraph (III), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(c) (Deleted by amendment, L. 2008, p. 1196, § 7, effective May 22, 2008.)

(d) (I) In applying the limitation in this subsection (3) to elections held after July 1, 1994, any additional local property tax revenues authorized at elections held under the provisions of former section 22-53-117 prior to July 1, 1994, shall be counted towards such limitation.

(II) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1553, § 6, effective May 21, 2009.)

(II.5) Any portion of the specific ownership tax paid to the district shall not apply to the limitation in this subsection (3).

(III) If the additional local property tax revenues already authorized and the specific ownership tax revenue, if any, exceeds the limitation, the district shall not be authorized to hold an election pursuant to the provisions of this section until the limitation is greater than the additional local property tax revenues already authorized and the specific ownership tax revenue, if any.

(e) (I) If a district's levy is reduced pursuant to section 22-54-106 (2) (b) (I), the provisions of this paragraph (e), as well as the provisions of paragraph (d) of this subsection (3), shall apply in calculating the limitation of this subsection (3).

(II) In applying the limitation of this subsection (3), the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2), shall be counted toward such limitation.

(f) In applying the limitation of this subsection (3), the amount of property tax generated pursuant to section 22-54-106 (2) (b) (III) shall be counted toward such limitation.

(g) (Deleted by amendment, L. 2008, p. 1196, § 7, effective May 22, 2008.)

(h) In applying the limitation in subparagraph (II) of paragraph (b) of this subsection (3) to elections held after July 1, 2002, any additional local property tax revenues authorized at an election held in November 2001 under the provisions of section 22-54-107.5 shall be counted towards such limitation.

(i) Nothing in this section shall affect the ability of a district to collect taxes pursuant to an election held pursuant to this section prior to May 22, 2008.

(4) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1904, § 13, effective June 10, 2010.)

**Source:** **L. 94:** Entire article added with relocations, p. 794, § 2, effective April 27. **L. 95:** (3)(b) amended and (3)(d)(II.5) and (3)(e) to (3)(g) added, pp. 616, 617, §§16, 17, effective May 22. **L. 96:** (1), (2), and (3)(f) amended, p. 1794, § 7, effective June 4. **L. 2002:** (3)(b) amended and (3)(h) added, p. 1741, § 14, effective June 7. **L. 2008:** (3)(b), (3)(c), and (3)(g) amended and (3)(i) added, p. 1196, § 7, effective May 22. **L. 2009:** (3)(b), (3)(d)(II), and (3)(d)(II.5) amended and (4) added, (SB 09-256), ch. 294, pp. 1552, 1553, §§ 5, 6, effective May 21. **L. 2010:** (3)(b)(II) and (3)(b)(III) amended, (HB 10-1369), ch. 246, p. 1099, § 7, effective May 21; (3)(b)(III) and (4) amended, (HB 10-1013), ch. 399, p. 1904, § 13, effective June 10.

**Editor's note:** Amendments to subsection (3)(b)(III) by House Bill 10-1369 and House Bill 10-1013 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (3)(b), (3)(c), and (3)(g) and enacting subsection (3)(i), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-108.5. Authorization of additional local revenues for full-day kindergarten - definitions.** (1) (a) Notwithstanding any law to the contrary, effective July 1, 2007, any district that chooses to raise and expend local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide funding for excess full-day kindergarten program costs in the district for the then-current budget year and each budget year thereafter. The question authorized by this paragraph (a) may also include a question of whether to impose an additional mill levy of a stated amount and limited duration to meet the initial capital construction needs of the district associated with the establishment of a full-day kindergarten program. If a mill levy for capital construction needs associated with the district's full-day kindergarten program is approved for more than one year, the board of education of the district may, without calling an election, decrease the amount or duration of the mill levy in subsequent years. The questions authorized by this paragraph (a) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(b) Notwithstanding any law to the contrary, effective July 1, 2007, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide funding for excess full-day kindergarten program costs in the district for the then-current budget year and each budget year thereafter. The question authorized by this paragraph (b) may also include a question of whether to impose an additional mill levy of a stated amount and limited duration to meet the initial capital construction needs of the district associated with the establishment of a full-day kindergarten program. If a mill levy for capital construction needs associated with the district's full-day kindergarten



program is approved for more than one year, the board of education of the district may, without calling an election, decrease the amount or duration of the mill levy in subsequent years. The questions authorized by this paragraph (b) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this paragraph (b) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(c) If a majority of the votes cast in an election held pursuant to paragraph (a) or (b) of this subsection (1) are in favor of the question, an additional mill levy shall be levied each year, and the revenues received from the additional mill levy shall be deposited in the full-day kindergarten fund of the district created in section 22-45-103 (1) (h). If the district obtained voter approval for an additional mill levy to meet the capital construction needs associated with the district's full-day kindergarten program, the revenues generated from that mill levy shall be deposited in the capital construction account of the district's full-day kindergarten fund.

(d) For purposes of this section, "excess full-day kindergarten program costs" means the costs that exceed fifty percent of the district's per-pupil revenues for the budget year in which the election is held, multiplied by the number of pupils enrolled or expected to enroll in the district's full-day kindergarten program.

(e) Notwithstanding the provisions of section 20 of article X of the state constitution that allow districts to seek voter approval for spending and revenue increases, the provisions of this subsection (1) shall limit a district's authority to raise and expend local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(2) A district that obtains voter approval pursuant to this section to impose an additional mill levy to fund excess full-day kindergarten program costs in the district shall:

(a) Establish its full-day kindergarten program using evidence-based research demonstrating the types of programs and methods appropriate for a full-day kindergarten program;

(b) Not limit the ability of parents enrolling a child in the district to enroll the child in a half-day kindergarten program; and

(c) Not be authorized to serve children through a full-day kindergarten component of the district's preschool program established pursuant to article 28 of this title.

(3) Notwithstanding any provision of law to the contrary, a district that provides and funds a full-day kindergarten program with moneys generated by the imposition of an additional mill levy as authorized by this section may charge tuition to a pupil who does not reside in the district for the excess full-day kindergarten program costs; except that such tuition charge shall not exceed the actual cost for providing the program as determined by the district providing the full-day kindergarten program.

**Source: L. 2007:** Entire section added, p. 35, § 1, effective March 7.

**22-54-109. Attendance in district other than district of residence.** (1) Districts paying tuition for pupils of residence in the district to attend public schools in other Colorado school districts and in school districts of adjoining states shall report and be entitled to support for such pupils; except that no district shall report any pupil who is from another district and whose tuition is paid by the pupil's district of residence.

(2) Any court of record, the department of social services, or any other agency authorized to place a child in a residential child care facility shall notify the school district of residence of such child, the district in which the child will receive educational services, and the department of education of such placement within fifteen days after the placement.

(3) (Deleted by amendment, L. 2008, p. 1197, § 8, effective May 22, 2008.)

(4) For a child with disabilities residing in a particular school district but receiving educational services from another school district, the state average per pupil revenues shall be the district of residence's total responsibility under this article for the education of that child. The provisions of this subsection (4) shall not apply to children with disabilities enrolled in an interdistrict participating school district pursuant to the provisions of article 36 of this title.

**Source:** **L. 94:** Entire article added with relocations, p. 796, § 2, effective April 27. **L. 2008:** (3) and (4) amended, p. 1197, § 8, effective May 22. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1915, § 43, effective June 10.

**Editor's note:** This section is similar to former § 22-53-104 as it existed prior to 1994.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (3) and (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

#### ANNOTATION

**Annotator's note.** Since § 22-54-109 is similar to § 22-50-104 as it existed prior to the 1989 repeal of article 50, a case construing that provision has been included in the annotations to this section.

**Notice requirement of this section** makes it clear that governmental entities which might have a financial or other interest in learning of a child's placement are entitled to be notified of the fact and circumstances of such placement by

the court or agency which finally places the child. *People v. Adams County Sch. Dist. No. 50*, 732 P.2d 1222 (Colo. App. 1986).

**School district which had not received notice** of placement of child in residential care facility as required by this section could not be held financially responsible for excess costs resulting from such placement. *People v. Adams County Sch. Dist. No. 50*, 732 P.2d 1222 (Colo. App. 1986).

#### **22-54-110. Loans to alleviate cash flow deficits - lease-purchase agreements.**

(1) (a) (I) Upon approval by the state treasurer of an application to participate in an interest-free or low-interest loan program submitted by a district pursuant to paragraph (a.5) of this subsection (1), the state treasurer shall make available to such district in any month of the budget year an interest-free or low-interest loan from the state general fund or the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S., in an amount for the month as certified by the chief financial officer and the superintendent of the district.

(II) The state treasurer shall determine the methodology for the calculation of cash deficits and establish reporting mechanisms necessary to ensure consistent and accurate reporting of cash deficits. No loan shall be made in any month unless the district has demonstrated, through the submission of any actual or projected financial or budgetary statements required by the state treasurer that a general fund cash deficit will exist for that month, and that the district has the capacity to repay the loan by June 25th of the state fiscal year in which the loan shall be made. This subparagraph (II) shall apply to a loan made from the state general fund or the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S.

(a.5) A district that chooses to participate in the interest-free or low-interest loan program shall submit an application to the state treasurer. On and after March 25, 2003, a district's initial application to participate in the interest-free or low-interest loan program shall be subject to approval by a resolution adopted by the district board of education as follows:

(I) For a month in which the district seeks an emergency loan pursuant to paragraph (d) of this subsection (1), the chief financial officer of the district and the district superintendent shall present the emergency loan request to the district board of education, explaining the need for the emergency loan and the requested amount. The district board of education, by majority vote, shall approve or disapprove the emergency loan request and the amount. If the district board of education approves the emergency loan request, the chief financial officer and the district superintendent shall request the emergency loan from and certify the amount of the emergency loan to, as approved by the district board of education, the state treasurer as provided in paragraph (a) of this subsection (1).

(II) If, in order to receive an interest-free loan, a district seeks to have tax and revenue anticipation notes issued on its behalf pursuant to section 29-15-112, C.R.S., the chief financial officer of the district and the district superintendent shall present a request to the district board of education to participate in the interest-free loan program and to have tax and revenue anticipation notes issued on its behalf. Such request shall explain the district's



anticipated cash flow deficit for the upcoming calendar year and the total amount of tax and revenue anticipation notes that need to be issued on its behalf to cover such deficit. The district board of education, by majority vote, shall approve or disapprove the participation in the interest-free loan program and the amount of tax anticipation and revenue notes that shall be issued on behalf of the district. If the district board of education approves the participation in the interest-free loan program and the issuance of tax and revenue anticipation notes, the chief financial officer and the district superintendent shall certify to the state treasurer the amount of the tax and revenue notes, as approved by the district board of education, that shall be issued on behalf of the district. Thereafter, a district shall not be required to receive approval for an interest-free loan made from the proceeds of the tax and revenue anticipation notes that received prior approval by the district board of education.

(b) A loan may not be made under this section to provide assistance for matters eligible for payment from the contingency reserve fund pursuant to section 22-54-117 or to cover a foreseeable level of uncollectible property taxes, nor may a loan be used by a district for the simultaneous purchase and sale of the same security or an equivalent security in order to profit from price disparity.

(c) Except as otherwise provided in paragraph (d) of this subsection (1), all loans to a district shall be made from the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S.

(d) If the amount of the tax and revenue anticipation notes, if any, issued on behalf of a district as determined by the state treasurer pursuant to section 29-15-112 (2) (f), C.R.S., is not sufficient to cover a district's cash deficit, then the state treasurer may, in his or her discretion, make available to such district an emergency loan from the state general fund. The emergency loan shall accrue interest at the same rate as the rate of interest paid by the state treasurer on notes issued by the state pursuant to part 9 of article 75 of title 24, C.R.S.

(2) (a) For the months of March, April, and May of each budget year, any district receiving a loan under the provisions of paragraph (d) of subsection (1) of this section shall begin to repay such loan if the district's available resources, as of the last day of the month, increased by the next month's revenues exceed the next month's expenditures plus a cash reserve. The excess resources must be remitted to the state treasurer by the close of business on the fifteenth day, or the first business day following the fifteenth day, of the following month. All loans shall be repaid by June 25 of the state fiscal year in which the loan was made or on a later alternative date as determined by the state treasurer.

(a.5) For the months of March, April, and May of each budget year, any district receiving a loan under the provisions of paragraph (c) of subsection (1) of this section shall begin to repay such loan as established by the district's agreement with the state treasurer. All loans shall be repaid by June 25 of the state fiscal year in which the loan was made or on a later alternative date as determined by the state treasurer.

(a.7) If a district defaults on a loan that is made from the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S., by failing to repay the loan on or before the date required, interest shall accrue on the unpaid balance from the date of default until the loan is repaid in an amount that is equal to the interest paid by the state treasurer on notes issued by the state pursuant to part 9 of article 75 of title 24, C.R.S.

(b) For purposes of paragraph (a) of this subsection (2):

(I) "Available resources" means any available cash and investments in district funds which can be used to alleviate general fund cash shortfalls including, but not limited to, the district's capital reserve fund and any fund or account within the general fund established solely for the management of risk-related activities. "Available resources" shall not include cash that is legally segregated or pledged by contract or rule and regulation of the state board.

(II) "Cash reserve" means eight percent of the district's average monthly expenditures or twenty thousand dollars, whichever is greater.

(c) A lien in the amount of any such loan, plus any interest specified in paragraph (a.7) of this subsection (2), shall attach to any district property tax revenues, except for bond redemption fund revenues, collected during the state fiscal year in which the loan was made, and such lien shall have priority over all other expenditures from such revenues until the loan shall have been repaid in full. The county treasurer of the county in which the

headquarters of the district are located shall be jointly responsible with the district for repayment of any loan made pursuant to this section, plus any interest specified in paragraph (a.7) of this subsection (2). If a district fails to repay a loan to the state treasurer in accordance with the provisions of this section, the state treasurer shall notify the county treasurer of the county in which the district is located that the district is in default on the loan and the amount of the default, plus any interest specified in paragraph (a.7) of this subsection (2). The county treasurer shall withhold any moneys of the district in the county treasurer's possession in an amount equal to the amount of the default, plus any interest specified in paragraph (a.7) of this subsection (2), and transmit said moneys to the state treasurer. If the amount of moneys of the district in the county treasurer's possession at the time notice of the default is given is less than the amount of the default, the county treasurer shall withhold additional moneys of the district until such time as the default, plus any interest specified in paragraph (a.7) of this subsection (2), has been completely paid to the state treasurer.

(d) (I) A district may sell real property to the state treasurer pursuant to the provisions of this paragraph (d) if:

(A) The district has been denied a loan pursuant to the provisions of this section in which case the fair market value of the property shall be equal to or greater than the amount of the purchase price; or

(B) The district is unable to pay a loan back in the same state fiscal year in which the loan was made in which case the fair market value of the real property shall be equal to or greater than the outstanding balance of the loan to the state treasurer.

(II) Such sale may only be made if:

(A) At the same time of the sale, the state treasurer leases back all of the property to the district pursuant to a lease-purchase agreement that is subject to annual appropriation by the school district;

(B) The district pays any legal or other transaction costs incurred by the state treasurer related to the sale of the property and the lease-purchase agreement; and

(C) The state treasurer agrees to the sale of the property and the lease-purchase agreement.

(III) The provisions of paragraph (c) of this subsection (2) shall not apply to the lease-purchase agreement, and no lien shall attach to any district tax revenues in order to secure the district's lease payments. The lease-purchase agreement shall not authorize the district to receive fee title to the property that is the subject of the lease-purchase agreement prior to the expiration of the terms of the lease-purchase agreement.

(IV) Sections 24-82-102 (1) (b) and 24-82-801, C.R.S., shall not apply to the lease-purchase agreement.

(V) If a district defaults in the payment of rent required by the lease-purchase agreement, it shall have thirty days to cure such default. If after thirty days the district has not cured the default and if the district remains in possession of the property, the state treasurer shall recover possession of the property pursuant to the provisions of article 40 of title 13, C.R.S. If a court enters a judgment in favor of the state treasurer and issues a writ of restitution pursuant to section 13-40-115, C.R.S., the state treasurer shall liquidate the property to the best advantage of the state.

(3) The state treasurer shall consult with the department of education concerning the administration of the loan program under this section in order to assure that it is implemented in a manner that will minimize the amount of emergency loans needed by each district.

(4) A district receiving a loan pursuant to this section shall be subject to an audit conducted by, or contracted for by, the state auditor and shall be penalized through the withholding of state aid in the event an audit finds the district used the loan in a manner contrary to the provisions of this section.

**Source:** **L. 94:** Entire article added with relocations, p. 797, § 2, effective April 27. **L. 97:** (2)(b)(I) amended, p. 585, § 13, effective April 30. **L. 2002:** (2)(a) amended, p. 550, § 1, effective July 1. **L. 2003:** (1)(a) amended and (1)(a.5) added, p. 757, § 1, effective March 25; (2)(d) added, p. 1287, § 2, effective April 22; (1)(a), (1)(a.5), (2)(a),



(2)(c), and (3) amended and (1)(c), (1)(d), (2)(a.5), and (2)(a.7) added, pp. 2172, 2174, 2175, §§ 2, 3, 4, effective July 1. **L. 2007:** (1)(b) amended, p. 631, § 7, effective April 26.

**Editor's note:** This section is similar to former § 22-53-122.5 as it existed prior to 1994.

**22-54-111. Adjustments in valuation for assessment.** (1) For each budget year, in calculating the total amount of revenue which a district is entitled to receive from the property tax levy for the general fund of a district during the budget year, the valuation for assessment of a district shall be adjusted as provided in subsection (2) of this section.

(2) If the valuation for assessment of a district includes the value of a certain property that was formerly tax-exempt but becomes taxable as a result of a change in the applicable state law and said inclusion is challenged by administrative appeal or litigation or both and the property taxes attributable to said property are not paid pending the outcome of said challenge, the valuation for assessment attributable to said property shall be subtracted from the valuation for assessment of the school district. If said property is finally determined to have been properly included in the district's valuation for assessment, the valuation for assessment attributable to said property shall be restored to the district's valuation for assessment, and the state general fund shall be reimbursed in full by the school district after collection of taxes, plus interest at the same rate as provided by statute for penalty interest on unpaid property taxes.

**Source: L. 94:** Entire article added with relocations, p. 798, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-118 as it existed prior to 1994.

**22-54-112. Reports to the state board.** (1) On or before November 15 of each year, the property tax administrator shall certify to the state board the valuations for assessment of all taxable property within each county and for each district or portion of a joint district in each county, with the exception of the city and county of Denver, for which the time of certification shall be on or before December 20. The furnishing of certified copies of the board of county commissioners' certification of levies and revenue to the county assessor and the property tax administrator, as provided by section 39-1-111 (2), C.R.S., shall be considered as having fulfilled the requirement of this section.

(2) (a) On or before November 10 of each year, the secretary of the board of education of each district shall certify to the state board the pupil enrollment, the on-line pupil enrollment, the ASCENT program pupil enrollment, and the preschool program enrollment of the district taken in the preceding October or previously in November.

(b) Repealed.

(c) On or before November 10 of each year, the secretary of the state charter school institute board shall certify to the state board the pupil enrollment and the on-line pupil enrollment of each institute charter school taken in the preceding October.

(3) If the valuation for assessment for all or a part of any district has been divided for an urban renewal area, pursuant to section 31-25-107 (9) (a), C.R.S., any report under this section shall be based upon that portion of the valuation for assessment under said section 31-25-107 (9) (a) (I), C.R.S., so long as such division remains in effect.

(4) (a) Except as otherwise provided in paragraph (b) of this subsection (4), every school of a district, charter school of a district, and institute charter school shall include in the materials for pupil registration the pupil application form to participate under the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., referred to in this subsection (4) as the "pupil application form". The registration materials shall include an explanation to parents that the pupil application form will be used by the school of the district, district charter school, or institute charter school to determine whether the school of the district, district charter school, or institute charter school is eligible for at-risk funding on behalf of the pupil and that, by filling out the form, the parent is ensuring that the school district or school will receive the at-risk funding to which it is entitled based on the population of at-risk pupils served by the school district or school.

(b) If one or more schools of a school district or if a district charter school or an institute charter school does not participate in the federal child nutrition programs under the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq., the school district, the district charter school, or the institute charter school shall use the family economic data survey form created by the department of education to identify those pupils who qualify as at-risk pupils in lieu of the pupil application form.

(c) In certifying the pupil enrollment pursuant to subsection (2) of this section, the secretary of the board of education of each district and the secretary of the state charter school institute board shall specify as at-risk pupils those pupils identified through use of the pupil application form and the family economic data survey form.

**Source:** **L. 94:** Entire article added with relocations, p. 799, § 2, effective April 27. **L. 2002:** (2) amended, p. 1737, § 7, effective June 7. **L. 2003:** (2)(a) amended, p. 2124, § 13, effective May 22. **L. 2004:** (2)(c) added, p. 1639, § 45, effective July 1; (2)(b) repealed, p. 1199, § 57, effective August 4. **L. 2005:** (2)(a) amended, p. 1006, § 2, effective June 2. **L. 2006:** (2)(a) amended, p. 699, § 44, effective April 28. **L. 2008:** (4) added, p. 1198, § 9, effective May 22. **L. 2009:** (2)(a) amended, (HB 09-1319), ch. 286, p. 1320, § 10, effective May 21; (2)(a) amended, (SB 09-292), ch. 369, p. 1964, § 65, effective August 5.

**Editor's note:** (1) This section is similar to former § 22-53-119 as it existed prior to 1994.

(2) Amendments to subsection (2)(a) by Senate Bill 09-292 and House Bill 09-1319 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-113. County public school fund.** (1) There is hereby created in the office of the county treasurer of each county a continuing fund, to be known as the county public school fund, into which shall be paid the proceeds of all county school moneys.

(2) Each district in the county shall be entitled to receive distribution during a budget year of moneys in the county public school fund in the proportion that its funded pupil count in the county is to the aggregate of the funded pupil counts of all districts in the county.

(3) The department of education shall determine the proportionate part of the county public school fund to be paid during the budget year to each district in the county and, on or before the first day of each budget year, shall certify such determination to the county treasurer. The certified proportions shall be the basis upon which the moneys in the fund shall be distributed during the ensuing budget year. At the end of each month during such year, the county treasurer shall credit or pay over the proper proportions of the moneys in the fund to the general funds of the districts in the county.

(4) For the purpose of determination and certification by the state board and distribution of moneys in the fund, the funded pupil count of a joint district shall be apportioned and assigned to the portion of the district in each county having territory in the district in the same proportion as the portion of the district's funded pupil count attributable to pupils resident in each county bears to the total funded pupil count of the joint district. The secretary of the board of education of each joint district shall certify to the state board the required information applicable to each county.

**Source:** **L. 94:** Entire article added with relocations, p. 799, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-120 as it existed prior to 1994.

**22-54-114. State public school fund.** (1) There is hereby created in the office of the state treasurer a fund, separate from the general fund, to be known as the state public school fund. There shall be credited to said fund the net balance of the public school income fund existing as of December 31, 1973, and all distributions from the state public school income



fund thereafter made, the state's share of all moneys received from the federal government pursuant to the provisions of section 34-63-102, C.R.S., and such additional moneys as shall be appropriated by the general assembly which are necessary to meet the state's share of the total program of all districts, funding for institute charter schools, and, for fiscal years prior to the 2007-08 fiscal year, the contingency reserve during the budget year. Moneys annually appropriated by the general assembly shall be transferred from the state general fund and credited to the state public school fund in four quarterly installments on July 1, September 30, December 31, and March 31 to assure the availability of funds for the required distribution of state moneys to school districts and institute charter schools. Such quarterly installments shall be determined in accordance with estimates prepared by the department of education with respect to the required distribution of state moneys to school districts and institute charter schools.

(2) No later than thirty days prior to the beginning of the budget year, the department of education shall determine the estimated requirements in order to provide each district and each institute charter school the amount it is eligible to receive from the state during the next ensuing fiscal year of the state. The appropriation by the general assembly shall be based on the requirements necessary to provide all districts and institute charter schools with the amounts they are each eligible to receive from the state, pursuant to the provisions of this part 1, during the next ensuing fiscal year of the state.

(2.3) Notwithstanding any provision of this article to the contrary, of the total amount appropriated by the general assembly in the annual appropriation bill for each budget year to meet the state's share of the total program of all districts and the total funding for all institute charter schools, the department of education may transfer an amount specified by the general assembly in the annual general appropriation bill for that budget year to offset the direct and indirect administrative costs incurred by the department in implementing the provisions of this article. The total program of each district that receives state aid and the total funding for each institute charter school shall be reduced by a percentage determined by dividing the amount of the transfer by the total program of all districts that receive state aid plus the total funding for all institute charter schools. The state aid of each district shall be reduced by the amount of the reduction in the district's total program or the amount of state aid, whichever is less, even if, for the 2009-10 budget year or any budget year thereafter, the reduction would result in a district receiving less state aid than the amount of minimum state aid for each district as determined by the general assembly for the applicable budget year. The department of education shall ensure that the reduction in state aid and institute charter school funding required by this subsection (2.3) is accomplished prior to the end of the budget year. The reductions described in this subsection (2.3) shall be in addition to any reduction that may be required pursuant to section 22-54-106 (4) (c).

(2.5) Repealed.

(2.7) The general assembly intends that the moneys transferred to the state public school fund pursuant to section 24-75-201.1 (1) (d) (XI.5), C.R.S., pursuant to Senate Bill 11-230, enacted in 2011, be available for appropriation during the 2011-12 budget year to account for mid-year changes in pupil enrollment and the at-risk pupil population and changes in assessed valuations and the specific ownership tax from the prior year.

(3) (a) Any unexpended balance of moneys appropriated by the general assembly in the state public school fund at the end of each fiscal year shall remain in the state public school fund and become available for distribution during the following fiscal year.

(b) (Deleted by amendment, L. 2007, p. 625, § 2, effective April 26, 2007.)

(4) (a) For the 1997-98 fiscal year and fiscal years thereafter, the net amount recovered by the department of education during the applicable fiscal year, pursuant to school district and institute charter school audits, as overpayments made to school districts and institute charter schools that would otherwise be transmitted to the state treasurer for deposit in the general fund shall instead be transmitted to the state treasurer for deposit in the state public school fund. The amount shall be available for appropriation to the department of education in subsequent fiscal years.

(b) For the 2010-11 fiscal year and fiscal years thereafter, the department of education shall reimburse school districts for educational services provided to juveniles pursuant to section 22-32-141 from moneys appropriated for said purpose.

(c) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate the amount calculated for at-risk supplemental aid pursuant to sections 22-30.5-112.2 and 22-30.5-513, up to three million eight hundred thirty-nine thousand six hundred twenty-seven dollars, from any amounts recovered and received by the department of education during the applicable budget year.

(5) All publishing costs associated with the annual printing of the laws enacted by the general assembly concerning education shall be paid out of the state public school fund.

(6) Repealed.

**Source: L. 94:** Entire article added with relocations, p. 800, § 2, effective April 27. **L. 98:** (3) amended and (4) added, p. 973, § 17, effective May 27. **L. 2001:** (3) amended, p. 362, § 30, effective April 16. **L. 2003:** (2.5) added, p. 2140, § 45, effective May 22. **L. 2004:** (2.3) added, p. 1397, § 16, effective May 28; (2.5) amended, p. 1662, § 13, effective June 3; (1), (2), (2.5), and (4) amended, p. 1639, § 46, effective July 1. **L. 2006:** (2.3) repealed, p. 661, § 3, effective April 28. **L. 2007:** (2.5) repealed, p. 14, § 4, effective February 6; (1) and (3)(b) amended and (5) added, p. 625, § 2, effective April 26; (6) added, p. 1058, § 3, effective July 1. **L. 2009:** (2.3) RC&RE, (SB 09-215), ch. 134, p. 578, § 2, effective April 17. **L. 2010:** (2.3) amended, (HB 10-1318), ch. 34, p. 127, § 2, effective March 22; (4) amended, (SB 10-054), ch. 265, p. 1212, § 3, effective May 25; (3)(a) amended, (SB 10-151), ch. 109, p. 365, § 3, effective July 1. **L. 2011:** (2.7) added, (SB 11-230), ch. 305, p. 1467, § 6, effective June 9. **L. 2012:** (4)(c) added, (HB 12-1345), ch. 188, p. 723, § 10, effective May 19.

**Editor's note:** (1) This section is similar to former § 22-53-121 as it existed prior to 1994.

(2) Amendments to subsection (2.5) by House Bill 04-1362 and House Bill 04-1433 were harmonized.

(3) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2008. (See L. 2007, p. 1058.)

**Cross references:** For the legislative declaration contained in the 2007 act repealing subsection (2.5), see section 1 of chapter 2, Session Laws of Colorado 2007. For the legislative declaration contained in the 2007 act enacting subsection (6), see section 1 of chapter 268, Session Laws of Colorado 2007.

**22-54-115. Distribution from state public school fund.** (1) No later than June 30 of each year, the state board shall determine the amount of the state's share of the district's total program for the budget year beginning on July 1, and the total thereof for all districts, which amount shall be payable in twelve approximately equal monthly payments during such budget year; except that:

(a) Such payments shall be adjusted following the certification of pupil enrollments, the certification of valuations for assessment to the state board pursuant to section 22-54-112 (1) and (2), and the certification of any payments in lieu of taxes received by school districts pursuant to section 39-3-114.5, C.R.S.;

(b) Such payments shall be adjusted in accordance with any district's instructions given pursuant to subsection (1.5) of this section; and

(c) Such payments shall be adjusted in accordance with the provisions of subsection (1.3) of this section.

(1.3) (a) In determining the state's share of each district's total program, the state board shall determine whether the district is an accounting district of an institute charter school. If a district is an accounting district of an institute charter school, the state board shall instruct the department of education to withhold from the amount of the state share otherwise payable to the district an amount equal to the lesser of:

(I) One hundred percent of the adjusted district per pupil revenues, as defined in section 22-30.5-513 (1) (b), multiplied by the number of pupils enrolled in the institute charter school who are not on-line pupils plus one hundred percent of the district per pupil on-line funding multiplied by the number of on-line pupils enrolled in the institute charter school; or

(II) The total amount of the state share payable to the district.



(a.5) In any budget year in which the state share of an accounting district of an institute charter school is less than the amount specified in subparagraph (I) of paragraph (a) of this subsection (1.3), the department of education shall submit a request for a supplemental appropriation in an amount that will fully fund the amount specified in said subparagraph (I). The department shall make the request to the general assembly during the budget year in which the underfunding occurs. If the general assembly does not make the requested supplemental appropriation, the department shall pay to the institute charter school the amount specified in subparagraph (II) of paragraph (a) of this subsection (1.3).

(b) The amount withheld shall be payable to the state charter school institute, in twelve approximately equal monthly payments during the budget year for payment to the institute charter school pursuant to section 22-30.5-513 (4).

(1.5) Any school district may give written instructions to the state board directing that a specified portion of a monthly payment or monthly payments that the district is otherwise entitled to receive pursuant to this section shall be transferred to the division of vocational rehabilitation in the department of human services for the district's cost of participating in school to work alliance programs. Such written instructions shall specify the amount to be transferred to the division of vocational rehabilitation from the district's payment for a specified month or months. Such written instructions shall be given to the state board no later than the fifth day of the first month in which such amount is to be transferred to the division of vocational rehabilitation.

(2) No later than the fifteenth day of each month, the state board shall certify to the state treasurer the amount payable to each district and to the state charter school institute in accordance with subsection (1.3) of this section during said month and the amount, if any, to be transferred to the division of vocational rehabilitation during said month in accordance with subsection (1.5) of this section.

(3) No later than the twenty-fifth day of each month, the state treasurer shall:

(a) Pay the amount certified as payable to each district, less the total amount of any direct payments made by the state treasurer on behalf of charter schools chartered by each school district of any principal and interest due on bonds pursuant to section 22-30.5-406 directly to the treasurer of each district or, in accordance with written instructions from the district, directly to an account designated by the district that allows the district to retain title to the funds;

(b) Transfer the amount certified, if any, to the division of vocational rehabilitation; and

(c) Pay the amount certified as payable to the state charter school institute directly or, in accordance with written instructions from the state charter school institute, directly to an account designated by the state charter school institute that allows the state charter school institute to retain title to the funds.

(4) The state board shall take care to avoid overpayment of state moneys. If it is determined that any district or the state charter school institute has been overpaid in any month, the state board shall adjust the following monthly payment or payments to such district or the state charter school institute so as to recover the amount overpaid. In the event that an overpayment cannot be recovered, the amount thereof shall be refunded to the state public school fund by the district or the state charter school institute receiving the same.

(5) (Deleted by amendment, L. 94, p. 800, § 2, effective April 27, 1994.)

(6) (a) Notwithstanding any provision of this section to the contrary, for the 2010-11 budget year, the department of education shall pay in installments to each district the amount of the state's share of the district's total program for the budget year as adjusted pursuant to paragraph (a) of subsection (1) of this section and shall pay in installments to the state charter school institute the total amount withheld from any accounting district pursuant to paragraph (a) of subsection (1.3) of this section for the budget year; except that the timing and amount of each installment payment to each district and the state charter school institute shall be determined by the department.

(b) Repealed.

**Source:** L. 94: Entire article added with relocations, p. 800, § 2, effective April 27; (1) amended, p. 2577, § 3, effective June 3. L. 97: (3) amended, p. 582, § 7, effective April 30. L. 2001: (1), (2), and (3) amended and (1.5) added, p. 362, § 32, effective April 16.

**L. 2002:** (3)(a) amended, p. 1767, § 36, effective June 7. **L. 2004:** Entire section amended, p. 1640, § 47, effective July 1. **L. 2009:** (1.3)(a.5) added, (SB 09-256), ch. 294, p. 1553, § 8, effective May 21; (1)(a) amended, (SB 09-042), ch. 176, p. 782, § 6, effective August 5. **L. 2010:** (6) added, (HB 10-1013), ch. 399, p. 1904, § 14, effective June 10. **L. 2012:** (1)(a) amended, (HB 12-1240), ch. 258, p. 1313, § 19, effective June 4.

**Editor's note:** (1) This section is similar to former § 22-53-122 as it existed prior to 1994.

(2) Subsection (6)(b)(II) provided for the repeal of subsection (6)(b), effective February 1, 2011. (See L. 2010, p. 1904.)

**22-54-116. Notice to taxpayers - assistance by department of education.** The department of education shall assist each district in complying with the requirements of section 22-40-102 (6), concerning notice to taxpayers of the reduced mill levy attributable to funds received pursuant to this article.

**Source: L. 94:** Entire article added with relocations, p. 801, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-123 as it existed prior to 1994.

**22-54-117. Contingency reserve - capital construction expenditures reserve - fund - lottery proceeds contingency reserve.** (1) (a) For fiscal years prior to the 2007-08 fiscal year, an amount to be determined by the general assembly shall be appropriated annually to the state public school fund as a contingency reserve. For the 2007-08 fiscal year and fiscal years thereafter, an amount to be determined by the general assembly shall be appropriated annually to the contingency reserve fund, which is hereby created in the state treasury. In deciding the amount to be appropriated to the contingency reserve or the contingency reserve fund, as applicable, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section shall be construed to obligate the general assembly to provide supplemental assistance to all districts determined to be in need or fully fund the total amount of such need. The state board is authorized to approve and order payments from the contingency reserve or the contingency reserve fund, as applicable, for supplemental assistance to districts determined to be in need as the result of any or all of the following circumstances:

(I) Financial emergencies caused by an act of God or arising from extraordinary problems in the collection of taxes;

(II) Financial emergencies arising from the nonpayment of property taxes pending the outcome of an administrative appeal or litigation or both challenging the inclusion of the value of certain property in a county's abstract of assessment which resulted from a change in the applicable state law;

(III) The amount of property tax levied and collected pursuant to section 39-10-114, C.R.S., is insufficient for the purpose of making abatements and refunds of property taxes which the district is required to make pursuant to said section;

(IV) Any contingency that could not have been reasonably foreseen at the time of the adoption of the annual budget, including, but not limited to, reductions in valuation of the district in excess of twenty percent as described in section 39-10-114 (1) (a) (I) (B.5), C.R.S.;

(V) Unusual financial burden caused by instruction of children who formerly resided outside the district but have been assigned to live within the district by courts or public welfare agencies. Such supplemental assistance shall not exceed the additional cost for current operations incurred by this circumstance.

(VI) Unusual financial burden caused by instruction of children who moved into the district following the pupil enrollment count date. Such supplemental assistance shall not exceed the additional cost incurred by the district due to the increase in pupil enrollment. The provisions of this subparagraph (VI) shall only be available to districts with a funded pupil count of two thousand or less.



(VII) Unusual financial burden caused by a significant decline in pupil enrollment as a result of detachment and annexation pursuant to a reorganization plan approved pursuant to article 30 of this title.

(b) Notwithstanding the provisions of subparagraphs (I) to (VII) of paragraph (a) of this subsection (1) concerning circumstances under which the state board may approve and order payments from the contingency reserve or contingency reserve fund, as applicable, the board may, in cases of extreme emergency, take into consideration such other factors as it may deem necessary and proper in granting supplemental assistance from the contingency reserve or contingency reserve fund, as applicable, to those districts that could not maintain their schools without such additional financial assistance.

(c) (I) If a payment for supplemental assistance is made pursuant to subparagraph (II) of paragraph (a) of subsection (1) of this section and the disputed property is finally determined to have been properly included in the abstract of assessment, the payment shall be reimbursed by the school district after collection of the taxes to the contingency reserve or contingency reserve fund, as applicable, in full, plus interest at the same rate as provided by statute for penalty interest on unpaid property taxes.

(II) Notwithstanding subparagraph (I) of this paragraph (c), any reimbursement by a school district of a payment for supplemental assistance made pursuant to this subsection (1) shall be credited to the contingency reserve or contingency reserve fund, as applicable.

(d) For fiscal years prior to the 2007-08 fiscal year, any unexpended balance in the contingency reserve at the end of each fiscal year shall remain in the contingency reserve and shall not revert to the state general fund or any other fund.

(e) (I) Notwithstanding the provisions of paragraph (d) of this subsection (1), all unexpended moneys remaining in the contingency reserve as of June 30, 2007, shall be transferred to the contingency reserve fund as of July 1, 2007.

(II) Any unexpended balance in the contingency reserve fund at the end of each fiscal year shall remain in the fund and shall not revert to the state general fund or any other fund.

(f) Notwithstanding any provision of paragraph (e) of this subsection (1) to the contrary, on April 20, 2009, the state treasurer shall deduct three million eighty-two thousand four hundred fifty-two dollars from the contingency reserve fund and transfer such sum to the general fund.

(g) Notwithstanding any provision of paragraph (e) of this subsection (1) to the contrary, as provided for in section 22-9-105.7 (3) and upon receipt of notice from the commissioner, for fiscal years 2010-11 and 2011-12, the state treasurer shall deduct an amount not to exceed two hundred fifty thousand dollars from the contingency reserve fund and transfer such amount to the great teachers and leaders fund, created in section 22-9-105.7.

(h) Notwithstanding any provision of paragraph (e) of this subsection (1) to the contrary, on June 30, 2011, the state treasurer shall deduct two million eight hundred fifty-three thousand three hundred eighty-three dollars from the contingency reserve fund and transfer such sum to the general fund.

(1.5) to (1.7) Repealed.

(2) Application by a district for supplemental assistance pursuant to subsection (1) of this section shall set forth fully the grounds upon which it relies for assistance and shall be sworn to under oath by the president and secretary of the district board of the district.

(3) The state board shall conduct such investigation as it deems proper, and, if it finds that an application should be approved, it shall determine the amount to be paid. In determining which districts receive payments pursuant to this section and the amount of such payments, the state board shall consider the amount of the supplemental assistance requested by the district as a percentage of the district's total program. By order upon the state treasurer, the board shall direct payment from the contingency reserve or contingency reserve fund, whichever is applicable, of such amount to the treasurer of the eligible district for credit to the general fund of the district.

(4) to (6) (Deleted by amendment, L. 2007, p. 626, § 3, effective April 26, 2007.)

**Source:** L. 94: Entire article added with relocations, p. 801, § 2, effective April 27. L. 98: (1)(e) added, p. 975, § 23, effective May 27. L. 99: (1)(f) added, p. 176, § 3,

effective March 30. **L. 2000:** (2), (3), and (6) amended and (1.5) added, p. 495, § 3, effective July 1. **Referred 2000:** (1.6) added, p. 2044, § 5, effective December 28. **L. 2001:** (1.7) added and (5) and (6)(a) amended, pp. 351, 362, §§ 14, 31, effective April 16. **L. 2002:** (1.6) and (1.7)(a) amended, pp. 1777, 1780, 1779, §§ 41, 45, 43, effective June 7. **L. 2003:** (1.6)(b) amended and (1.6)(c) added, p. 517, § 6, effective March 5; IP(1.5)(a), (1.5)(b), (1.5)(c), and (1.7)(a) amended and (1.5)(d) added, pp. 2134, 2132, §§ 31, 26, effective May 22. **L. 2004:** (1.7)(a) amended, p. 1393, § 12, effective May 28. **L. 2005:** (1.7)(a) amended, p. 435, § 9, effective April 29. **L. 2006:** (6)(b) repealed, p. 675, § 14, effective April 28. **L. 2007:** (1), (1.5)(a), (1.6)(a), and (3) to (6) amended and (1.5)(a.5), (1.5)(e), and (1.6)(d) added, pp. 626, 629, §§ 3, 4, effective April 26; (1.5)(a.5) and (1.6)(a) amended, p. 688, § 2, effective May 3; (1.6)(a) amended, p. 1310, § 9, effective July 1. **L. 2008:** (1.5), (1.6), and (1.7) repealed and (2) and (3) amended, pp. 1068, 1065, §§ 14, 10, effective July 1. **L. 2009:** (1)(f) added, (SB 09-208), ch. 149, p. 622, § 14, effective April 20. **L. 2010:** (1)(g) added, (SB 10-191), ch. 241, p. 1075, § 16, effective May 20. **L. 2011:** (1)(h) added, (SB 11-164), ch. 33, p. 92, § 3, effective March 18.

**Editor's note:** (1) This section is similar to former § 22-53-124 as it existed prior to 1994.

(2) Subsection (1.6) was enacted by Senate Bill 00-084. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of Colorado on November 7, 2000. Subsection (1.6) was effective upon the proclamation of the Governor, December 28, 2000. The vote count for the measure was as follows:

FOR: 836,390

AGAINST: 783,275

(3) In accordance with section 13 of chapter 141, Session Laws of Colorado 2000, the act enacting subsection (1.5) and amending subsections (2), (3), and (6) to establish the school capital construction expenditures reserve shall only take effect if a final state court order is entered under which the state of Colorado will provide financial assistance to school districts for capital construction projects and under which *Giardino v. Colorado State Board of Education, et al.*, Civil Action No. 98 CV 246 (Denver District Court) is dismissed and under which funds could be appropriated which would exceed the limitation on general fund appropriations established by § 24-75-201 (1) (a), Colorado Revised Statutes. The attorney general of the state of Colorado notified the revisor of statutes, the staff director of the joint budget committee, the state controller, and the commissioner of education that a final state court order was entered on June 9, 2000, allowing subsections (1.5), (2), (3), and (6) to take effect July 1, 2000.

(4) Amendments to subsection (1.6) by section 41 of chapter 335 and section 45 of chapter 335, Session Laws of Colorado 2002, were harmonized.

(5) Subsection (1.5)(a.5) was originally numbered as subsection (1.5)(a), and the amendments to it in House Bill 07-1059 were harmonized with House Bill 07-1237 and renumbered as subsection (1.5)(a.5).

(6) Amendments to subsection (1.6)(a) by House Bill 07-1059, House Bill 07-1237, and Senate Bill 07-041 were harmonized.

**Cross references:** For the legislative declaration contained in the 2000 act amending subsections (2), (3), and (6), and enacting subsection (1.5), see section 13 of chapter 141, Session Laws of Colorado 2000. For the legislative declaration contained in the 2007 act amending subsections (1.5)(a.5) and (1.6)(a), see section 1 of chapter 186, Session Laws of Colorado 2007. For the legislative declaration contained in the 2007 act amending subsection (1.6)(a), see section 9 of chapter 306, Session Laws of Colorado 2007.

**22-54-118. Joint districts.** (1) The board of education of a joint district shall determine the location of its administrative headquarters and shall notify both the state board and the treasurer of each county in which any territory of such joint district is situated of such location.

(2) Allocation of moneys in the county public school fund to a joint district partially situated in a county shall be made on the basis set forth in section 22-54-113.

(3) All moneys collected under this article by the county treasurer of a county in which part of a joint district is situated shall be credited to such joint district and at the end of each month shall be paid over to the treasurer of the county in which the administrative headquarters of such joint district is located and forthwith credited or paid over to the



general fund of such joint district. The treasurer of the county in which the administrative headquarters of the joint district is located shall make no charge for collection of moneys transferred from other counties. Warrants of a joint district shall be drawn only upon the treasurer of the county in which its administrative headquarters is located in those cases where a district has not elected under law to withdraw its funds from the custody of the county treasurer.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-125 as it existed prior to 1994.

**22-54-119. General provisions.** (1) The county treasurer shall charge a collection fee of one-quarter of one percent upon moneys collected for or distributed to any district located in whole or in part in the county from taxes levied for the general fund of the district.

(2) Nothing in this article shall affect or limit the authority of any district to make such other tax levies as are provided by law.

(3) Nothing in this article shall in any manner affect the rights of districts to moneys allowable or payable to such districts under the provisions of other laws.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27.  
**L. 99:** (1) amended, p. 177, § 4, effective January 1, 2000.

**Editor's note:** This section is similar to former § 22-53-126 as it existed prior to 1994.

**22-54-120. Rules and regulations.** (1) The state board shall make reasonable rules and regulations necessary for the administration and enforcement of this article.

(2) All reports and certifications required from secretaries of boards of education and from institute charter schools pursuant to the provisions of this article shall be made in such manner and form as may be prescribed by the state board.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27.  
**L. 2004:** (2) amended, p. 1642, § 48, effective July 1.

**Editor's note:** This section is similar to former § 22-53-127 as it existed prior to 1994.

#### **22-54-121. Funding for statewide assessment program. (Repealed)**

**Source: L. 97:** Entire section added, p. 596, § 35, effective August 6. **L. 98:** Entire section repealed, p. 965, § 6, effective May 27.

**22-54-122. Small attendance center aid.** (1) (a) For the 1998-99 budget year through the 2007-08 budget year, a district shall be eligible for aid pursuant to this section if:

(I) The district has more than one elementary or secondary school attendance center; and

(II) The district operates one or more elementary or secondary attendance centers with a pupil enrollment of less than two hundred and that are located twenty or more miles from any similar school attendance center in the same district.

(b) For the 2008-09 budget year and budget years thereafter, a district shall be eligible for aid pursuant to this section if:

(I) The district has more than one elementary or secondary school attendance center;

(II) The district operates one or more elementary or secondary attendance centers that have pupil enrollments of less than two hundred and that are located twenty or more miles from any similar school attendance center in the same district; and

(III) The district received aid pursuant to this section prior to the 2008-09 budget year.

(1.5) (a) For the 2004-05 budget year through the 2007-08 budget year, an institute charter school shall be eligible for aid pursuant to this section if the institute charter school has a pupil enrollment of fewer than two hundred and is located twenty or more miles from any similar school attendance center.

(b) For the 2008-09 budget year and budget years thereafter, an institute charter school shall be eligible for aid pursuant to this section if the institute charter school has a pupil enrollment of fewer than two hundred, is located twenty or more miles from any similar school attendance center, and received aid pursuant to this section prior to the 2008-09 budget year.

(2) (a) A district meeting the eligibility requirements of subsection (1) of this section shall be eligible to receive aid for each small attendance center as calculated by: Multiplying the pupil enrollment of the small attendance center by an amount equal to thirty-five percent of the difference between the district per pupil funding, as calculated pursuant to section 22-54-104, and the district per pupil funding, as calculated pursuant to section 22-54-104 except using the size factor calculated using the funded pupil count of the small attendance center; and then multiplying such amount by the percentage determined by dividing the difference between two hundred and the funded pupil count of the small attendance center by two hundred.

(b) An institute charter school meeting the eligibility requirements of subsection (1.5) of this section shall be eligible to receive aid as a small attendance center as calculated by: Multiplying the pupil enrollment of the institute charter school by an amount equal to thirty-five percent of the difference between the district per pupil funding of the institute charter school's accounting district, as calculated pursuant to section 22-54-104, and such district per pupil funding, as calculated pursuant to section 22-54-104 except using the size factor calculated using the pupil enrollment of the institute charter school, and then multiplying such amount by the percentage determined by dividing the difference between two hundred and the pupil enrollment of the institute charter school by two hundred.

(3) The general assembly shall appropriate annually an amount for small attendance center aid to be distributed pursuant to the formulas in subsection (2) of this section. In the event the amount of money appropriated by the general assembly is less than the amount of aid authorized by this section to all eligible districts and eligible institute charter schools, the amount to be distributed to each eligible school district and eligible institute charter school shall be in the same proportion as the amount that the appropriation bears to the total amount of aid for all eligible districts and eligible institute charter schools.

(4) If a school district receives small attendance center aid pursuant to this section for a small attendance center that is a district charter school, the school district shall forward the entire amount of such aid to the district charter school for which it was received. If an institute charter school is eligible for small attendance center aid pursuant to this section, the state charter school institute shall forward the entire amount of such aid to the institute charter school for which it was received.

**Source:** **L. 98:** Entire section added, p. 970, § 13, effective May 27. **L. 2002:** (4) added, p. 1737, § 8, effective June 7. **L. 2004:** (1.5) added and (2), (3), and (4) amended, p. 1642, § 49, effective July 1. **L. 2008:** (1) and (1.5) amended, p. 1198, § 10, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1) and (1.5), see section 1 of chapter 286, Session Laws of Colorado 2008.

## **22-54-123. National school lunch act - appropriation of state matching funds.**

(1) For the 2001-02 budget year and budget years thereafter, the general assembly shall appropriate by separate line item an amount to comply with the requirements for state matching funds under the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq. The department of education shall develop procedures to allocate and disburse the funds among participating school food authorities each year in an equitable manner so as to comply with the requirements of said act.



(2) As used in this section, unless the context otherwise requires, “school food authority” means:

- (a) A school district or the state charter school institute;
- (a.3) A charter school collaborative formed pursuant to section 22-30.5-603;
- (a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or
- (b) A district charter school or an institute charter school that:
  - (I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or
  - (II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source: L. 2001:** Entire section added, p. 365, § 35, effective April 16. **L. 2004:** Entire section amended, p. 1643, § 50, effective July 1. **L. 2009:** Entire section amended, (SB 09-230), ch. 227, p. 1035, § 7, effective May 4. **L. 2010:** (1) amended, (HB 10-1013), ch. 399, p. 1905, § 15, effective June 10; (2)(a) amended and (2)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 6, effective August 11; (2)(b)(I) amended, (HB 10-1422), ch. 419, p. 2078, § 46, effective August 11. **L. 2011:** (2)(a.3) added, (HB 11-1277), ch. 306, p. 1505, § 37, effective August 10.

#### **22-54-123.5. School breakfast program - appropriation - low-performing schools.**

(1) (a) For the 2002-03 budget year and each budget year thereafter, the general assembly may appropriate by separate line item an amount to assist school food authorities that are providing a school breakfast program through participation in programs authorized under the federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq., or the federal “Child Nutrition Act of 1966”, 42 U.S.C. sec. 1771 et seq. The department of education shall develop procedures to appropriately allocate and disburse the funds among participating school food authorities.

(b) Each school district that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance the school breakfast program in each low-performing school of the receiving district with the goal of improving the academic performance of the students attending such schools.

(c) A district charter school, an institute charter school, or a charter school collaborative that is a school food authority shall only be eligible to receive moneys pursuant to this section if it is a low-performing school. A district charter school or an institute charter school that is a school food authority that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance its school breakfast program with the goal of improving the academic performance of the students attending the district charter school or the institute charter school.

(d) (Deleted by amendment, L. 2010, (HB 10-1422), ch. 419, p. 2078, § 47, effective August 11, 2010.)

(2) As used in this section:

(a) “Low-performing school” means a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210.

(b) “School food authority” means:

- (I) A school district or the state charter school institute;
- (I.3) A charter school collaborative formed pursuant to section 22-30.5-603;
- (I.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or
- (II) A district charter school or an institute charter school that:
  - (A) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or
  - (B) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source: L. 2002:** Entire section added, p. 1787, § 53, effective June 7. **L. 2003:** (1) amended, p. 521, § 11, effective March 5. **L. 2004:** (1) amended, p. 1643, § 51, effective July 1. **L. 2006:** (1)(d) added, p. 1113, § 3, effective May 25. **L. 2009:** (1)(a), (1)(c), and (2) amended, (SB 09-230), ch. 227, p. 1035, § 8, effective May 4; (2) amended, (SB 09-163), ch. 293, p. 1544, § 51, effective May 21. **L. 2010:** (1)(d) and (2)(b)(II)(A) amended, (HB 10-1422), ch. 419, p. 2078, § 47, effective August 11; (2)(b)(I) amended and (2)(b)(I.5) added, (HB 10-1335), ch. 326, p. 1513, § 7, effective August 11. **L. 2011:** (1)(c) amended and (2)(b)(I.3) added, (HB 11-1277), ch. 306, p. 1505, §§ 38, 39, effective August 10.

**Editor's note:** Amendments to subsection (2) by Senate Bill 09-230 and Senate Bill 09-163 were harmonized.

**Cross references:** For the legislative declaration contained in the 2006 act enacting subsection (1)(d), see section 1 of chapter 242, Session Laws of Colorado 2006.

**22-54-124. State aid for charter schools - use of state education fund moneys - definitions.** (1) As used in this section:

(a) "Capital construction" means construction, demolition, remodeling, financing, purchasing, or leasing of land, buildings, or facilities used to educate pupils enrolled in or to be enrolled in a charter school.

(b) "Charter school" means a district charter school as described in section 22-30.5-104 or an institute charter school as defined in section 22-30.5-502.

(c) "District's certified charter school pupil enrollment" means the total number of pupils who are not on-line pupils, as defined in section 22-30.5-103 (6), expected to be enrolled in all qualified charter schools that will receive funding from the district pursuant to section 22-30.5-112 for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(c.5) "Institute charter school's certified pupil enrollment" means the total number of pupils who are not on-line pupils, as defined in section 22-30.5-502 (9), expected to be enrolled in a qualified institute charter school that will receive funding pursuant to section 22-30.5-513 for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(d) "Minimum capital reserve amount per pupil" means the minimum amount per pupil required to be budgeted by each district to the capital reserve fund created by section 22-45-103 (1) (c), a risk management fund or account, or both, pursuant to section 22-54-105 (2) (a) and (2) (b), without regard to any exception to said minimum budgeting requirement permitted pursuant to section 22-54-105 (2) (c).

(e) "Operating revenues" means the total amount of funding that a district charter school receives from a district for a budget year pursuant to section 22-30.5-112 minus the amounts required by section 22-30.5-112 (2) (a.7) to be allocated for capital reserve purposes or the management of risk-related activities. For purposes of an institute charter school, "operating revenues" means the total amount of funding that the institute charter school receives from the state charter school institute for a budget year pursuant to section 22-30.5-513, minus the amounts required by section 22-30.5-514 (1), to be allocated for capital reserve purposes or the management of risk-related activities.

(f) and (f.5) Repealed.

(f.6) (I) For the budget years commencing on or after July 1, 2003, "qualified charter school" means:

(A) A charter school that is not operating in a school district facility and that has capital construction costs;

(B) A charter school that is operating in a school district facility and that has capital construction costs; or



(C) A charter school that is operating or will operate in the next budget year in a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the department of personnel pursuant to section 24-30-1303.5, C.R.S., and that is obligated to make lease payments for use of the facility.

(II) For budget years commencing on or after July 1, 2003, "qualified charter school" does not include:

(A) A charter school that is operating in a school district facility and that does not have capital construction costs;

(B) A charter school that does not have capital construction costs; or

(C) A charter school that is operating or will operate in the next budget year in a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the department of personnel pursuant to section 24-30-1303.5, C.R.S., and that is not obligated to make lease payments for use of the facility.

(2) (a) For the 2001-02 budget year and budget years thereafter, a district shall be eligible to receive state education fund moneys for district charter school capital construction pursuant to this section if at least one qualified district charter school will be receiving funding from the district pursuant to section 22-30.5-112 during the budget year for which state education fund moneys are to be distributed.

(b) For the 2004-05 budget year and budget years thereafter, an institute charter school shall be eligible to receive state education fund moneys for institute charter school capital construction if the institute charter school will be receiving funding from the state charter school institute pursuant to section 22-30.5-513 during the budget year for which state education fund moneys are to be distributed.

(3) (a) (I) and (II) Repealed.

(III) (A) The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2003-04 through 2011-12 budget years shall be an amount equal to five million dollars; except that, for the 2006-07 budget year, an additional two million eight hundred thousand dollars shall be appropriated from the state education fund and shall be used for the purposes of this section, and for the 2008-09 budget year, an additional one hundred thirty-five thousand dollars shall be appropriated from the state education fund and shall be distributed pursuant to section 22-54-133, as said section existed prior to its repeal in 2010. The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2012-13 budget year and each budget year thereafter is six million dollars.

(B) Repealed.

(C) For the 2004-05 budget year, and each budget year thereafter, the amount of state education fund moneys to be distributed to any eligible district and any eligible institute charter school shall be an amount equal to the percentage of the sum of the district's certified charter school pupil enrollment and the institute charter school's certified pupil enrollment for all eligible districts and eligible institute charter schools in the state that is attributable to the eligible district or eligible institute charter school multiplied by the total amount of state education fund moneys distributed to all eligible districts and eligible institute charter schools for the same budget year pursuant to sub-subparagraph (A) of this subparagraph (III).

(b) No later than February 1 of each budget year, the department of education shall certify to the education committees of the senate and the house of representatives and the joint budget committee of the general assembly the total number of pupils expected to be enrolled in all qualified charter schools in the state during the next budget year, as derived from reports provided to the department by districts pursuant to section 22-30.5-112 (1) and by institute charter schools pursuant to section 22-30.5-513 (3) (a). For the purposes of any certification made during the 2003-04 budget year and budget years thereafter, a pupil expected to be enrolled in a qualified charter school as defined in sub-subparagraph (B) of subparagraph (I) of paragraph (f.6) of subsection (1) of this section shall be counted as one-half of one pupil.

(4) (a) For the 2001-02 budget year, the 2003-04 budget year, and each budget year thereafter, the general assembly shall annually appropriate from the state education fund

created in section 17 (4) of article IX of the state constitution, to the department of education for distribution to eligible school districts and eligible institute charter schools in accordance with the formula set forth in paragraph (a) of subsection (3) of this section, an amount equal to the total amount of moneys to be distributed to all districts and institute charter schools as determined pursuant to said formula.

(b) Prior to the 2009-10 budget year, from the moneys appropriated for a given budget year pursuant to this section, the department of education shall make lump sum payments of all moneys to be distributed to each eligible school district and eligible institute charter school during the budget year as soon as possible.

(c) For the 2009-10 budget year and each budget year thereafter, the department of education shall distribute the total amount to be distributed pursuant to this section to each eligible school district and eligible institute charter school in twelve approximately equal monthly payments during the applicable budget year in conjunction with the distribution of the state's share of district total program pursuant to section 22-54-115.

(4.5) Repealed.

(5) A district that receives state education fund moneys pursuant to this section shall distribute all moneys received to qualified charter schools as required by section 22-30.5-112.3 and may not retain any of such moneys to defray administrative expenses or for any other purpose.

(6) Pursuant to section 17 (3) of article IX of the state constitution, any moneys appropriated by the general assembly out of the state education fund, received by any eligible district or eligible institute charter school pursuant to this section, and distributed to a qualified charter school by any district pursuant to this section and section 22-30.5-112.3 shall be exempt from:

(a) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(b) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution.

(7) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for charter school capital construction from moneys in the state education fund created in section 17 (4) of article IX of the state constitution is a permissible use of the moneys in the state education fund since the moneys are being used for public school building capital construction as authorized by section 17 (4) (b) of article IX of the state constitution.

(8) The general assembly hereby finds that with the adoption of the new definition of "qualified charter" school, enacted in House Bill 02-1349 during the second regular session of the sixty-third general assembly, the program created in this section is a new program as of June 7, 2002, and that the general assembly enacted such new program in order to meet the eligibility requirements of the incentive grant program included in the federal "No Child Left Behind Act of 2001", Pub.L. 107-110.

(9) The general assembly recognizes charter schools' continuing need for assistance in meeting capital construction costs. The general assembly therefore strongly encourages the governor to allocate a portion of the moneys received by the state through the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, to charter schools in the state to assist them in meeting their capital construction and facility costs.

**Source: L. 2001:** Entire section added, p. 346, § 9, effective April 16. **L. 2002:** (1)(c), (1)(f), and (3) amended and (1)(f.5) and (8) added, pp. 1752, 1768, 1767, §§ 28, 37, 38, effective June 7. **L. 2003:** (3)(a)(II), (3)(a)(III), and (4) amended and (4.5) added, p. 518, § 9, effective March 5; (1)(f.5), (3)(a)(III)(A), and (3)(b) amended and (1)(f.6) added, pp. 2132, 2133, §§ 27, 28, effective May 22. **L. 2004:** (1)(b), (1)(e), (2), (3)(a)(III), (3)(b), (4), and IP(6) amended and (1)(c.5) added, p. 1644, § 52, effective July 1. **L. 2006:** (1)(c), (1)(c.5), and (3)(a)(III)(A) amended, p. 701, § 50, effective April 28; (1)(f), (1)(f.5), (3)(a)(I), (3)(a)(II), (3)(a)(III)(B), and (4.5) repealed, p. 625, § 48, effective August 7. **L. 2007:** (1)(f.6)(I) and (1)(f.6)(II)(C) amended, p. 744, § 24, effective May 9. **L. 2008:** (3)(a)(III)(A) amended, p. 1199, § 11, effective May 22. **L. 2009:** (3)(a)(III)(A) amended, (SB 09-215), ch. 134, p. 579, § 3, effective April 17; (4) amended and (9) added, (SB



09-256), ch. 294, p. 1554, §§ 9, 10, effective May 21. **L. 2010:** (3)(a)(III)(A) amended, (HB 10-1013), ch. 399, p. 1907, § 19, effective June 10. **L. 2012:** (3)(a)(III)(A) amended, (HB 12-1345), ch. 188, p. 716, § 2, effective May 19.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3)(a)(III)(A), see section 1 of chapter 286, Session Laws of Colorado 2008.

### **22-54-125. Increasing enrollment district aid. (Repealed)**

**Source:** **L. 2002:** Entire section added, p. 1737, § 9, effective June 7. **L. 2003:** Entire section repealed, p. 522, § 15, effective March 5.

### **22-54-126. Declining enrollment districts with new charter schools - additional aid - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) “Declining enrollment district” means a district whose funded pupil count is greater than the sum of the district’s pupil enrollment, preschool program enrollment, and on-line pupil enrollment.

(b) “New charter school enrollment” means the number of pupils enrolled in a new district charter school of a declining enrollment district on the pupil enrollment count day in the budget year in which the new district charter school is opened in the declining enrollment district minus the number of pupils enrolled as of that date in an on-line program or an on-line school who are also enrolled in the new district charter school of the declining enrollment district.

(c) “Pupil enrollment count day” has the same meaning as set forth in section 22-54-103 (10.5).

(2) Beginning in the 2006-07 budget year, in any budget year in which a new district charter school is opened in a declining enrollment district, the declining enrollment district shall receive additional aid as specified in this section to help mitigate the impact of the enrollment of pupils in the new district charter school who might otherwise have attended a traditional school in the declining enrollment district. The additional aid shall be available only for the first year of operation of a new district charter school in a declining enrollment district.

(3) For the 2006-07 budget year and each budget year thereafter, the general assembly shall annually appropriate moneys from the general fund or any other source for additional aid to a declining enrollment district in which a new charter school is opened. The additional aid shall be distributed to all declining enrollment districts in which new charter schools are opened in the budget year for which the aid is appropriated. The additional aid shall be distributed among the declining enrollment districts in which new charter schools are opened in the proportion that the declining enrollment district’s new charter school enrollment bears to the total new charter school enrollment in all declining enrollment districts statewide in which new charter schools are opened in the budget year for which the additional aid is appropriated; except that for the 2007-08 budget year and budget years thereafter, a declining enrollment district shall not receive more than three hundred thousand dollars of additional aid pursuant to this section.

**Source:** **L. 2006:** Entire section added, p. 682, § 24, effective April 28. **L. 2007:** (3) amended, p. 736, § 7, effective May 9. **L. 2009:** (1)(a) amended, (SB 09-292), ch. 369, p. 1965, § 66, effective August 5. **L. 2012:** (1)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 157, § 21, effective March 22; (1)(b) amended, (HB 12-1240), ch. 258, p. 1331, § 47, effective June 4.

**Editor’s note:** Amendments to subsection (1)(b) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-54-127. Tax increment financing task force - study impacts on public school finance - repeal. (Repealed)**

**Source:** L. 2006: Entire section added, p. 681, § 23, effective April 28.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective January 1, 2007. (See L. 2006, p. 681.)

**22-54-128. Military dependent supplemental pupil enrollment aid - definitions. (Repealed)**

**Source:** L. 2007: Entire section added, p. 2085, § 1, effective August 3. L. 2010: IP(2), (4), (6), and (8) amended and (9) added, (HB 10-1013), ch. 399, p. 1905, § 16, effective June 10. L. 2012: (1)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 157, § 22, effective March 22; entire section repealed, (HB 12-1240), ch. 258, p. 1313, § 20, effective June 4.

**Editor's note:** Subsection (1)(b) was amended and subsection (1)(c) was added in House Bill 12-1090. The amendment and addition were superseded by the repeal of the entire section in House Bill 12-1240. For the amendment to subsection (1)(b) and the addition of subsection (1)(c) that were in effect from March 22, 2012, to June 4, 2012, see chapter 44, Session Laws of Colorado. (L. 2012, p. 157.)

**22-54-129. Facility school funding - definitions - legislative declaration. (1)** As used in this section, unless the context otherwise requires:

(a) "Approved facility school" shall have the same meaning as provided in section 22-2-402 (1).

(b) "Department" means the department of education created and operating pursuant to section 24-1-115, C.R.S.

(c) "Facility" shall have the same meaning as provided in section 22-2-402 (3).

(d) "Pupil enrollment" means the number of students receiving educational services at the approved facility school or state program on the pupil enrollment count day of the applicable budget year.

(d.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(e) "State average per pupil revenue" means the total program of all districts for any budget year divided by the total funded pupil count of all districts for said budget year.

(f) "State program" means the Colorado school for the deaf and the blind or the education program operated by the Colorado mental health institute at Pueblo or Fort Logan for students for whom the institute has responsibility because of a court order or other action by a public entity in Colorado.

(2) For the 2008-09 budget year and each budget year thereafter, each approved facility school and state program that meets the requirements of this section shall receive education program funding, which shall be distributed pursuant to subsection (4) of this section. The amount of funding available for all approved facility schools and state programs in a budget year shall be an amount equal to the pupil enrollment of each approved facility school and state program for the applicable budget year multiplied by an amount equal to one and one-third of the state average per pupil revenue for the applicable budget year.

(3) To receive education program funding pursuant to this section, an approved facility school or a state program shall submit its pupil enrollment for the applicable budget year to the department on or before November 10, 2008, and on or before October 5 of each budget year thereafter.

(4) (a) In addition to the requirements of subsection (3) of this section, on or before the fifteenth day of each month, an approved facility school or a state program shall report to the department, in a manner to be determined by the department, the actual number of students who received educational services at the approved facility school or through the state program during the prior calendar month and the corresponding number of full-time



equivalent students to which the approved facility school or state program provided such services. The department may accept amended monthly reports from an approved facility school or a state program prior to making the distribution of funding for the applicable month pursuant to paragraph (b) of this subsection (4).

(b) On or before the fifteenth day of the month following the month in which an approved facility school or a state program reported the number of students to which it provided educational services and the number of full-time equivalent students to which the approved facility school or state program provided services pursuant to paragraph (a) of this subsection (4), the department shall pay the approved facility school or state program a proportional amount of the total amount of education program funding as determined pursuant to subsection (2) of this section, based on the approved facility school's or state program's reported number of full-time equivalent students.

(c) The department may prorate the payments made pursuant to paragraph (b) of this subsection (4), if the department determines that such action is necessary to accommodate a projected shortfall in education program funding as calculated pursuant to subsection (2) of this section.

(5) In each applicable budget year, the general assembly shall appropriate to the department the amount required for education program funding pursuant to subsection (2) of this section.

(6) (a) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the administration and enforcement of this section. In promulgating the rules, the state board shall seek input from approved facility schools, state programs, districts, and organizations that represent facility schools.

(b) In promulgating rules pursuant to paragraph (a) of this subsection (6), the state board shall seek input from the facility schools board created in section 22-2-404.

(7) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing funding for pupils who are placed in a facility and receive educational services through an approved facility school, who attend the Colorado school for the deaf and the blind, or who receive educational services through an education program operated by the Colorado mental health institute at Pueblo or Fort Logan is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire section added, p. 1200, § 12, effective May 22. **L. 2009:** Entire section amended, (HB 09-1189), ch. 99, p. 368, § 1, effective April 3. **L. 2012:** (1)(d) amended and (1)(d.5) added, (HB 12-1090), ch. 44, p. 158, § 23, effective March 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-130. Hold-harmless full-day kindergarten funding.** (1) For the 2008-09 budget year and each budget year thereafter, a district that participated in the Colorado preschool program pursuant to article 28 of this title in the 2007-08 budget year and that served a percentage of children authorized to participate in the district's preschool program through a full-day kindergarten portion of the program in the 2007-08 budget year shall receive hold-harmless full-day kindergarten funding pursuant to this section. The funding paid pursuant to this section shall be in addition to the funding for supplemental kindergarten enrollment that the district receives pursuant to section 22-54-103 (7) (d).

(2) A district's annual hold-harmless full-day kindergarten funding shall be an amount equal to the number of children that the district served through a full-day kindergarten portion of the district's preschool program in the 2007-08 budget year or the number of children enrolled in kindergarten in the district in the applicable budget year, whichever is

less, multiplied by the district's per pupil revenue for the applicable budget year, and then multiplied by the difference between one and the full-day kindergarten factor for the applicable budget year specified in section 22-54-103 (15).

(3) In each applicable budget year, the general assembly shall appropriate to the department the amount required for hold-harmless full-day kindergarten funding pursuant to this section. The department shall annually allocate to each district described in subsection (1) of this section the amount of the district's hold-harmless full-day kindergarten funding calculated pursuant to subsection (2) of this section.

(4) For the 2008-09 budget year and each budget year thereafter, a district that receives funding pursuant to this section shall provide a full day of kindergarten in the applicable budget year to at least the same number of children for which the district provided a full day of kindergarten in the 2007-08 budget year through the Colorado preschool program; except that this subsection (4) shall not apply in a budget year in which the number of children who choose to enroll in a full day of kindergarten is less than the number of children who enrolled in a full day of kindergarten in the 2007-08 budget year through the Colorado preschool program.

**Source: L. 2008:** Entire section added, p. 1201, § 12, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-131. Full-day kindergarten funding - guidelines - technical assistance - legislative intent - legislative declaration.** (1) A district that, prior to the 2008-09 budget year, offered a full-day kindergarten program without additional state funding to some or all of the kindergarten pupils enrolled in the district is encouraged to use the moneys received from supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) and hold-harmless full-day kindergarten funding pursuant to section 22-54-130 in the 2008-09 budget year and each budget year thereafter to expand the district's existing full-day kindergarten program rather than to defray the costs of the existing full-day kindergarten program.

(2) In offering a full-day kindergarten program with the moneys received from supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) and hold-harmless full-day kindergarten funding pursuant to section 22-54-130, a district is encouraged to follow the basic program standards established by the state board pursuant section 22-28-108 for the Colorado preschool program, as they may apply to a full-day kindergarten program.

(3) In offering a full-day kindergarten program with the moneys received from supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) and hold-harmless full-day kindergarten funding pursuant to section 22-54-130, a district is encouraged to prioritize children who are homeless when enrolling children in the full-day kindergarten program.

(4) A district shall use the total amount received from supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) and hold-harmless full-day kindergarten funding pursuant to section 22-54-130 to provide access to a full-day kindergarten program; except that in any budget year, if a district provides a full day of kindergarten to at least ninety percent of the pupils enrolled in kindergarten in the district who choose to attend a full day of kindergarten, the district may use the moneys from supplemental kindergarten enrollment and hold-harmless full-day kindergarten funding for purposes other than to provide access to a full-day kindergarten program.

(5) (a) Upon the request of a district, the department shall provide, subject to available resources, such technical assistance as may be necessary for the implementation of a full-day kindergarten program and for ongoing training of personnel for the successful implementation of the program.



(b) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing technical assistance to districts for the implementation of a full-day kindergarten program and for ongoing training of personnel for the successful implementation of a full-day kindergarten program will expand the availability of kindergarten programs and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(6) Beginning in the 2009-10 budget year and continuing through the 2013-14 budget year, it is the intent of the general assembly to increase annually the appropriation to be used by districts to provide full-day kindergarten programs. For each budget year, the general assembly intends to appropriate the following amounts:

- (a) For the 2009-10 budget year, sixty million dollars;
- (b) For the 2010-11 budget year, seventy million dollars;
- (c) For the 2011-12 budget year, eighty million dollars;
- (d) For the 2012-13 budget year, ninety million dollars; and
- (e) For the 2013-14 budget year, one hundred million dollars.

**Source: L. 2008:** Entire section added, p. 1202, § 12, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-132. Declining enrollment study - legislative declaration - repeal. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1203, § 12, effective May 22. **L. 2009:** IP(2), (4), and (5) amended, (SB 09-215), ch. 134, p. 579, § 4, effective April 17.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2010. (See L. 2009, p. 579.)

**22-54-133. Charter school for the deaf and the blind - supplementary funding - definitions. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1205, § 12, effective May 22. **L. 2010:** Entire section repealed, (HB 10-1013), ch. 399, p. 1906, § 17, effective June 10.

**22-54-134. Hold-harmless facility school student funding - legislative declaration - repeal. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1206, § 12, effective May 22. **L. 2009:** (1) amended, (HB 09-1189), ch. 99, p. 371, § 4, effective April 3.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 1206.)

**22-54-135. Average daily membership study - fund created - repeal. (Repealed)**

**Source: L. 2010:** Entire section added, (SB 10-008), ch. 149, p. 514. § 1, effective April 21.

**Editor's note:** (1) On October 21, 2010, the revisor of statutes received the notice referred to in subsection (4) that would cause the repeal of this section pursuant to subsection (11).

(2) Subsection (11) provided for the repeal of this section, effective October 21, 2011.

## ARTICLE 55

### State Policies Relating to Section 17 of Article IX of the State Constitution

22-55-101.	Legislative declaration.				mates - legislative declaration.
22-55-102.	Definitions.				
22-55-103.	State education fund - creation - transfers to fund - use of moneys in fund - permitted investments - exempt from spending limitations.	22-55-105.			General fund appropriations requirements - maintenance of effort base.
		22-55-106.			Statewide base per pupil funding - increases.
22-55-104.	Procedures relating to state education fund revenue esti-	22-55-107.			Categorical programs - increases in funding.
		22-55-108.			Accountability.

**22-55-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Section 17 of article IX of the state constitution, which was approved by the registered electors of this state at the 2000 general election, requires the general assembly to increase funding for preschool through twelfth grade public education and for categorical programs;

(b) Specifically, section 17 of article IX of the state constitution requires:

(I) A specified percentage of state income tax revenues collected on income earned on or after December 28, 2000, to be diverted to a newly created state education fund from which moneys may be appropriated only for specified education-related purposes;

(II) The general assembly to annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs by at least the rate of inflation plus one percentage point for state fiscal years 2001-02 through 2010-11, and by at least the rate of inflation for state fiscal year 2011-2012 and each succeeding state fiscal year; and

(III) The general assembly to annually increase the general fund appropriation for total program education funding under the "Public School Finance Act of 1994", article 54 of this title, or any successor act, for each state fiscal year from 2001-02 through 2010-11 by at least five percent over the amount of the prior year's general fund appropriation for total program education funding, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(2) The general assembly further finds and declares that:

(a) It is the duty and intent of the general assembly to comply with the requirements of section 17 of article IX of the state constitution;

(b) It is within the legislative prerogative of the general assembly to enact legislation to implement section 17 of article IX of the state constitution that will ensure compliance with the requirements of said section 17 of article IX and facilitate its operation;

(c) In enacting legislation to implement section 17 of article IX of the state constitution:

(I) The general assembly has attempted to interpret the provisions of section 17 of article IX of the state constitution in a manner that gives its words their natural and obvious significance;

(II) The general assembly has attempted to ascertain the intent of the proponents who initiated section 17 of article IX of the state constitution and the voters who adopted it and to apply other generally accepted rules of constitutional construction where the meaning of said section 17 of article IX is uncertain.

(3) The general assembly further finds and declares that:

(a) Because the amount of funding provided for the prior state fiscal year plays a significant role in the calculation of the minimum amount of the increase in state appropriations for education required for each state fiscal year by section 17 of article IX of the state constitution, the amount of money that the state will be required to spend for education



funding for each state fiscal year will increase dramatically over time due to a compounding effect;

(b) Since section 17 of article IX of the state constitution does not create any new tax, increase the rate of any existing tax, or otherwise increase the amount of revenues that will be collected by the state, some of the increases in state education funding that said section 17 of article IX requires will affect the amount of money available to fund other state programs and services;

(c) In enacting legislation to implement section 17 of article IX of the state constitution, it is the duty, intent, and legislative prerogative of the general assembly to mitigate any adverse impact that the state education funding requirements of said section 17 of article IX may have on the financial condition of the state and other state programs and services by ensuring that moneys are credited to the state education fund, invested while in the fund, and expended from the fund in a manner that will ensure that the fund remains viable and that fund moneys will always be available to meet a significant portion of the long-term state education funding requirements of said section 17 of article IX.

(d) This article reflects the considered judgment of the general assembly regarding the meaning and implementation of the provisions of section 17 of article IX of the state constitution.

**Source:** L. 2001: Entire article added, p. 673, § 1, effective May 30; entire article added, p. 571, § 1, effective May 30; entire article added, p. 990, § 1, effective June 5.

**Editor's note:** Senate Bill 01-082 was harmonized with Senate Bill 01-204 and House Bill 01-1262.

**22-55-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Accountability reporting" means any requirement established in law that mandates school districts to report or provide information relative to school improvement to the state board or the department, including, but not limited to:

(a) Data collection and reporting requirements that are required pursuant to part 5 of article 11 of this title in connection with school performance reports;

(b) Reporting requirements in connection with the administration and implementation of the Colorado student assessment program developed pursuant to part 4 of article 7 of this title; or

(c) Requirements specified in the "Education Accountability Act of 2009", article 11 of this title.

(2) (a) "Accountable education reform" means any program or plan for reforming preschool through twelfth-grade education in the state that complies with accountability standards imposed by law on school districts in the state, including, but not limited to, the requirements set forth in:

(I) Part 5 of article 11 of this title relating to school performance reports; and

(II) Part 4 of article 7 of this title relating to the Colorado student assessment program.

(b) "Accountable education reform" includes any program or plan for improving teacher quality.

(c) "Accountable education reform" includes any program for improving student academic achievement that conforms with the requirements of federal programs related to student achievement.

(3) "Accountable programs to meet state academic standards" include, but are not limited to, programs designed to assist students in demonstrating improved academic achievement on student assessments administered under the Colorado student assessment program developed pursuant to part 4 of article 7 of this title. "Accountable programs to meet state academic standards" include, but are not limited to, programs:

(a) For the purchase of additional or improved textbooks;

(b) To provide incentives to increase parental involvement;

(c) To improve literacy; or

(d) To provide assistance with English language proficiency beyond what is currently provided pursuant to the English language proficiency program established pursuant to section 22-24-104.

- (4) "Categorical programs" includes only the following programs:
- (a) Public school transportation as described in article 51 of this title;
  - (b) The English language proficiency program created in section 22-24-104;
  - (c) The expelled and at-risk student services grant program created in section 22-33-205;
  - (d) Special education programs for children with disabilities as described in article 20 of this title;
  - (e) Special education programs for gifted children as described in article 20 of this title;
  - (f) The grant program for in-school or in-home suspension described in article 37 of this title;
  - (g) Career and technical education as described in article 8 of title 23, C.R.S.;
  - (h) Small attendance centers for which state aid is available pursuant to section 22-54-122;
  - (i) The comprehensive health education program created in section 22-25-104; and
  - (j) Other current and future accountable programs specifically identified in statute as a categorical program.

(5) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(6) "Federal taxable income, as modified by law" means federal taxable income as modified by sections 39-22-104, 39-22-304, 39-22-509, and 39-22-518, C.R.S., and as apportioned and allocated under section 39-22-303.5 or 39-22-303.7, C.R.S., to the extent federal taxable income is not being modified to effectuate a refund of excess state revenues required pursuant to section 20 of article X of the state constitution, earned on or after December 28, 2000.

(7) "Inflation" means the percentage change in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics, or its successor index.

(8) (Deleted by amendment, L. 2009, (SB 09-292), ch. 369, p. 1965, § 67, effective August 5, 2009.)

(9) "Performance incentives for teachers" include, but are not limited to, programs that:

- (a) Promote teacher retention;
  - (b) Promote teacher recruitment;
  - (c) Promote teacher use of technology; or
  - (d) Provide salary incentives based in whole or in part on student performance.
- (10) "Preschool programs" includes, but is not limited to, the Colorado preschool program created pursuant to section 22-28-104.

(11) "State board" means the state board of education created and existing pursuant to section 1 (1) of article IX of the state constitution.

(12) "State education fund" means the state education fund created pursuant to section 17 (4) of article IX of the state constitution and section 22-55-103.

(13) "State education fund revenues" means revenues collected from a tax of one-third of one percent on federal taxable income, as modified by law, of every individual, estate, trust, and corporation, as defined in law, that are required to be transferred to the state education fund pursuant to section 17 (4) (a) of article IX of the state constitution.

(14) "Statewide base per pupil funding" means the amount specified for each budget year in section 22-54-104 (5) (a).

(15) "Statutory limitation on general fund appropriations" means the limitation on annual general fund appropriations set forth in section 24-75-201.1, C.R.S.

(16) "Student safety" includes, but is not limited to, any plan, program, or project designed to improve the safety of the physical environment of preschool through twelfth-grade students while on property owned or under the control of the school district.



(17) "Technology education" includes, but is not limited to, any plan, program, or project designed to enhance the computer and telecommunication skills of preschool through twelfth-grade students and teachers or improve instruction through technology application.

(18) "Total program" or "total program education funding" means a district's total program as determined pursuant to section 22-54-104 (1).

(19) "Total state funding for all categorical programs" means the aggregate amount of state funding for all categorical programs in any given fiscal year, including any adjustments made to said funding through the enactment of a supplemental appropriation bill or bills for that fiscal year.

**Source:** **L. 2001:** Entire article added, p. 675, § 1, effective May 30; entire article added, p. 573, § 1, effective May 30; entire article added, p. 992, § 1, effective June 5. **L. 2003:** (8) amended, p. 2138, § 38, effective May 22. **L. 2006:** (8) and (10) amended, p. 699, § 45, effective April 28. **L. 2008:** (6) amended, p. 953, § 1, effective January 1, 2009. **L. 2009:** (1), IP(2)(a), and (2)(a)(I) amended, (SB 09-163), ch. 293, p. 1545, § 52, effective May 21; (15) amended, (SB 09-228), ch. 410, p. 2256, § 3, effective July 1; (8) and (10) amended, (SB 09-292), ch. 369, p. 1965, § 67, effective August 5. **L. 2010:** (4)(g) amended, (SB 10-062), ch. 168, p. 591, § 1, effective April 29.

**Editor's note:** Provisions of this section, as enacted by Senate Bill 01-082, Senate Bill 01-204, and House Bill 01-1262, have been renumbered and harmonized.

**22-55-103. State education fund - creation - transfers to fund - use of moneys in fund - permitted investments - exempt from spending limitations.** (1) In accordance with section 17 (4) of article IX of the state constitution, there is hereby created in the state treasury the state education fund. The fund shall consist of state education fund revenues, all interest and income earned on the deposit and investment of moneys in the fund, and any gifts or other moneys that are exempt from the limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S., that may be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any state fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund.

(2) (a) The legislative council, in consultation with the office of state planning and budgeting, shall calculate the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, and the amount of state education fund revenues for each state fiscal year commencing on or after July 1, 2001. The legislative council and the office of state planning and budgeting shall rely upon the quarterly state revenue estimates issued by the legislative council in calculating such amounts and shall update its calculations no later than five days following the issuance of each quarterly state revenue estimate.

(b) To ensure that all state education fund revenues are transferred to the state education fund and that other state revenues are not erroneously transferred to the fund:

(I) No later than two days after calculating or recalculating the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, or for any state fiscal year commencing on or after July 1, 2001, the legislative council, in consultation with the office of state planning and budgeting, shall certify to the department of revenue the amount of state education fund revenues that the department shall transfer to the state treasurer for deposit into the state education fund on the first day of each of the three succeeding calendar months as required by paragraph (c) of this subsection (2);

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), no later than May 25 of any state fiscal year commencing on or after July 1, 2000, the legislative council, in consultation with the office of state planning and budgeting, may certify to the department of revenue an adjusted amount for any transfer to be made on the first business day of the immediately succeeding June; and

(III) Subject to review by the state auditor, the legislative council, in consultation with the office of state planning and budgeting, may correct any error in the total amount of state education fund revenues transferred during any state fiscal year by adjusting the amount of any transfer to be made during the next state fiscal year.

(c) On the first business day of each calendar month that commences after June 5, 2001, the department of revenue shall transfer to the state treasurer for deposit into the state education fund state education fund revenues in an amount certified to the department by the legislative council, in consultation with the office of state planning and budgeting, pursuant to paragraph (b) of this subsection (2).

(3) (a) Except as provided by law, all moneys in the state education fund are subject to annual appropriation by the general assembly to the department of education for the purposes set forth in this subsection (3). The department shall expend all interest derived from the deposit and investment of moneys in the fund prior to expending any of the principal in the fund. The moneys in the fund shall only be used to comply with the requirements of section 17 (1) of article (IX) of the state constitution and for such purposes as may be authorized by law and that are consistent with section 17 (4) (b) of article IX of the state constitution.

(b) Nothing in this subsection (3) shall be construed to require additional or future appropriations from the state education fund for any program for which an appropriation from the fund has previously been authorized for any given fiscal year in accordance with the provisions of paragraph (a) of this subsection (3).

(4) Moneys in the state education fund may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(5) Pursuant to section 17 (3) of article IX of the state constitution, all moneys credited to the fund, appropriated by the general assembly out of the fund, or distributed from the fund and expended by any school district shall be exempt from:

(a) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.;

(b) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution; and

(c) The statutory limitation on general fund appropriations.

**Source: L. 2001:** Entire article added, p. 993, § 1, effective June 5. **L. 2009:** (5)(c) amended, (SB 09-228), ch. 410, p. 2256, § 4, effective July 1.

**22-55-104. Procedures relating to state education fund revenue estimates - legislative declaration.** (1) The general assembly finds and declares that:

(a) Section 17 (4) (a) of article IX of the state constitution requires that a portion of state income tax revenues be deposited in the newly created state education fund;

(b) Section 17 (4) (b) of article IX of the state constitution authorizes the general assembly to annually appropriate moneys from the state education fund to comply with the required increase in funding for preschool through twelfth grade public education and for categorical programs;

(c) In order to ensure the availability of moneys in the state education fund to comply with the increase in funding for preschool through twelfth grade public education and for categorical programs, the general assembly must preserve the fund, foster its growth, and protect its solvency;

(d) To preserve the fund, foster its growth, and protect its solvency, the general assembly must restrict appropriations from the fund and make an annual determination of the maximum amount that may be appropriated from the fund based on analyses prepared on a regular basis.

(2) Repealed.

(3) By February 1, 2002, and by each February 1 thereafter, the staff of the legislative council, in consultation with the state auditor, the office of state planning and budgeting, the state treasurer, the department of education, and the joint budget committee, shall cause to be conducted a review of the model used to forecast revenues in and expenditures from the fund and the spending requirements of the "Public School Finance Act of 1994", article 54



of this title. Copies of the review shall promptly be transmitted to the joint budget committee, and the office of state planning and budgeting, and the education committees of the senate and the house of representatives. The review shall include, but need not be limited to, the following:

- (a) A determination of the reasonableness of the assumptions used to forecast the revenues and expenditures;
- (b) A revision of the assumptions as necessary;
- (c) Information on the financial stability of the fund;
- (d) Projections of the amount of total state moneys required to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year;
- (e) Projections of the amount of state moneys available from funds other than the general fund and the state education fund to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year;
- (f) Revenue projections for the state education fund;
- (g) An estimate of the maximum amount of moneys that can be appropriated from the state education fund and the minimum amount of moneys that can be appropriated from the general fund to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year without adversely impacting the solvency of the state education fund or the ability of the general assembly to comply with said funding requirements in future years; and
- (h) Estimates of the impact of various levels of general fund appropriations above the minimum level identified pursuant to paragraph (g) of this subsection (3) on the amount of moneys available in the state education fund to provide funding in the next state fiscal year for programs that may be authorized by law and that are consistent with section 17 (4) (b) of article IX of the state constitution.

**Source:** **L. 2001:** Entire article added, p. 574, § 1, effective May 30. **L. 2003:** (3)(h) amended, p. 2138, § 39, effective May 22. **L. 2009:** (2) repealed, (SB 09-181), ch. 147, p. 614, § 1, effective April 20.

**Editor's note:** This section was enacted as section 22-55-103 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with Senate Bill 01-082 and House Bill 01-1262.

**22-55-105. General fund appropriations requirements - maintenance of effort base.** (1) (a) In accordance with section 17 (5) of article IX of the state constitution, for state fiscal years 2001-02 through 2010-11, the general assembly shall annually appropriate from the general fund for total program under the "Public School Finance Act of 1994", article 54 of this title, an amount equal to the maintenance of effort base plus an amount as determined annually by the general assembly that is equal to at least five percent of the maintenance of effort base, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(b) (I) The general assembly shall determine whether the requirements of this subsection (1) apply in the next state fiscal year based on Colorado personal income growth estimates or data made available by the bureau of economic analysis in the United States department of commerce at the time the general assembly enacts the annual general appropriation act for that state fiscal year.

(II) The general assembly shall increase the general fund appropriation for total program funding when it considers supplemental appropriation bills during the state fiscal year for which a determination has been made pursuant to subparagraph (I) of this paragraph (b) if:

(A) The general assembly had initially determined that the requirements of this subsection (1) do not apply in that state fiscal year and had not increased the general fund appropriation for total program funding for that state fiscal year by the minimum amount specified in paragraph (a) of this subsection (1); and

(B) The bureau of economic analysis in the United States department of commerce releases, adjusts, or updates Colorado personal income data during that state fiscal year, as

reported to the general assembly in the December revenue forecast by the staff of the legislative council, and the released, adjusted, or updated data indicates that Colorado personal income grew by at least four and one-half percent between the two calendar years preceding that state fiscal year.

(III) The general assembly may reduce the general fund appropriation for total program funding when it considers supplemental appropriation bills during the state fiscal year for which a determination has been made pursuant to subparagraph (I) of this paragraph (b) if:

(A) The general assembly had initially determined that the requirements of this subsection (1) do apply in that state fiscal year and had increased the general fund appropriation for total program funding for that state fiscal year by the minimum amount specified in paragraph (a) of this subsection (1); and

(B) The bureau of economic analysis in the United States department of commerce releases, adjusts, or updates Colorado personal income data during that state fiscal year, as reported to the general assembly in the December revenue forecast by the staff of the legislative council, and the released, adjusted, or updated data indicates that Colorado personal income grew by less than four and one-half percent between the two calendar years preceding that state fiscal year.

(IV) The determination and general fund appropriation for total program funding made pursuant to this paragraph (b) shall not be subject to modification in state fiscal years following the state fiscal year for which the determination and appropriation were made based on any Colorado personal income growth data released, adjusted, or updated by the bureau of economic analysis in the United States department of commerce on or after January 1 of the state fiscal year for which the determination and appropriation were made.

(2) For purposes of this section, "maintenance of effort base" means the aggregate amount of general fund appropriations for total program pursuant to the "Public School Finance Act of 1994", article 54 of this title, for the immediately preceding state fiscal year, including any increases or decreases made to said appropriations through the enactment of a supplemental appropriation bill or bills for that state fiscal year.

**Source: L. 2001:** Entire article added, p. 576, § 1, effective May 30. **L. 2005:** (1) amended, p. 1349, § 1, effective June 3. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1906, § 18, effective June 10.

**Editor's note:** This section was enacted as section 22-55-104 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with Senate Bill 01-082 and House Bill 01-1262.

**22-55-106. Statewide base per pupil funding - increases.** (1) (a) For school district budget years 2001-02 through 2010-11, the general assembly shall annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year plus one percentage point.

(b) For the school district budget year 2011-12 and each school district budget year thereafter, the general assembly shall annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year.

(2) The general assembly may annually appropriate moneys in the state education fund, the general fund, any other state fund, or some combination thereof, as necessary in the sole discretion of the general assembly, to satisfy the requirements of subsection (1) of this section, and such moneys shall be distributed to public school districts and the state charter school institute in accordance with the provisions of the "Public School Finance Act of 1994", article 54 of this title.

**Source: L. 2001:** Entire article added, p. 576, § 1, effective May 30; entire article added, p. 678, § 1, effective May 30. **L. 2004:** (2) amended, p. 1646, § 53, effective July 1.



**Editor's note:** This section was enacted as section 22-55-103 in Senate Bill 01-082 and as section 22-55-105 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with House Bill 01-1262.

**22-55-107. Categorical programs - increases in funding.** (1) (a) For school district budget years 2001-02 through 2010-11, the general assembly shall annually increase the total state funding for all categorical programs by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year plus one percentage point.

(b) For the school district budget year 2011-12 and each school district budget year thereafter, the general assembly shall annually increase the total state funding for all categorical programs by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year.

(2) The general assembly may annually appropriate moneys in the state education fund, the general fund, any other state fund, or some combination thereof, as necessary in the sole discretion of the general assembly but consistent with section 17 (5) of article IX of the state constitution, to satisfy the requirements of subsection (1) of this section. The general assembly may annually determine the particular categorical programs for which state funding will be increased for purposes of complying with the requirements of subsection (1) of this section, and the allocation of such increase shall be reflected in the annual general appropriation bill.

(3) For the 2008-09 budget year and each budget year thereafter, on or before February 15, the education committees of the house of representatives and senate, or any successor committees, may submit to the joint budget committee of the general assembly a joint recommendation regarding the allocation of the increase in total state funding for all categorical programs as required by subsection (1) of this section for the next budget year. The joint budget committee shall consider but shall not be bound by any joint recommendations made pursuant to this subsection (3) when developing the annual general appropriation bill for the budget year for which the joint recommendation is made.

**Source: L. 2001:** Entire article added, p. 577, § 1, effective May 30; entire article added, p. 678, § 1, effective May 30. **L. 2007:** (3) added, p. 743, § 22, effective May 9.

**Editor's note:** This section was enacted as section 22-55-104 in Senate Bill 01-082 and as section 22-55-106 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with House Bill 01-1262.

**22-55-108. Accountability.** Each school district in the state shall adopt a continuous plan for the use of revenues distributed to the school district pursuant to sections 22-55-106 and 22-55-107. The plan shall be annually updated by the school district to reflect any changes in the use of the revenues distributed to the school district pursuant to sections 22-55-106 and 22-55-107. The plan shall include, but need not be limited to, a statement concerning the need for lower class sizes in school districts with a total enrollment of more than six thousand pupils and the need for increased funding for textbooks in the school district as determined based on discussions in public meetings held in the school district to address the class size and textbook funding issues and whether the need will be addressed by the plan. Each school district shall also include in its electronic transmissions required by section 22-11-501 (4) (d) an accounting of the impact of such revenues on student achievement.

**Source: L. 2001:** Entire article added, p. 679, § 1, effective May 30. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1545, § 53, effective May 21.

**Editor's note:** This section was enacted as section 22-55-105 in Senate Bill 01-082 but has been renumbered for ease of location and harmonized with Senate Bill 01-204 and House Bill 01-1262.

ARTICLE 56

Colorado Opportunity Contract Pilot Program

22-56-101 to 22-56-110. (Repealed)

Source: L. 2006: Entire article repealed, p. 627, § 49, effective August 7.

Editor’s note: This article was added in 2003 and was not amended prior to its repeal in 2006. For the text of this article prior to 2006, consult the 2005 Colorado Revised Statutes.

ARTICLE 57

Supplemental On-line Education Courses - Financing

22-57-101 to 22-57-104. (Repealed)

Editor’s note: (1) This article was added in 2006 and was not amended prior to its repeal in 2007. For the text of this article prior to 2007, consult the 2006 Colorado Revised Statutes.

(2) Section 22-57-104 provided for the repeal of this article, effective July 1, 2007. (See L. 2006, p. 936.)

Cross references: For current provisions concerning supplemental on-line education programs, see §§ 22-2-130 and 22-5-119.

ARTICLE 58

School Funding Models Pilot Program

22-58-101.	Legislative declaration.	22-58-104.	- funding.
22-58-102.	Definitions.		Advisory council - created -
22-58-103.	Alternative school funding models pilot program - created - application - waivers	22-58-105.	duties - reporting - funding.
			Repeal of article.

22-58-101. Legislative declaration. (1) The general assembly hereby finds that:

(a) The funding for school districts under the “Public School Finance Act of 1994”, article 54 of this title, is based on a method of determining student enrollment and per pupil student funding that meets the constitutional requirement for maintaining a thorough and uniform system of free public schools throughout the state, but may not adequately take into account the costs of educating high-needs or alternatively enrolled students and is not designed to provide incentives for school districts and public schools to ensure that their students achieve high academic growth; and

(b) The continuing advances of education reform and the expanded use of education technology in the state suggest that other, more flexible, methods of funding public education may support greater academic achievement and help to ensure that the limited resources of the state would be allocated among the school districts and public schools in the most fair and effective manner possible.

(2) The general assembly therefore finds that it is in the best interests of the state to encourage school districts and charter schools to test alternative models of school funding by collecting data to show the effects a model would have if it were implemented, while continuing to receive actual funding pursuant to the “Public School Finance Act of 1994”, article 54 of this title. School districts and charter schools are encouraged to consider funding models that may address, at a minimum, the unique challenges of funding students who are significantly at risk of academic failure, students who are gifted and talented, students enrolled in on-line programs or on-line schools, students who return to public



school after dropping out, and students concurrently enrolled in high school and higher education classes. School districts and charter schools are also encouraged to consider models of education funding based on achievement rather than attendance or hours of participation.

**Source: L. 2010:** Entire article added, (HB 10-1183), ch. 174, p. 629, § 1, effective April 29. **L. 2012:** (2) amended, (HB 12-1240), ch. 258, p. 1331, § 48, effective June 4.

**22-58-102. Definitions.** As used in this article, unless the context otherwise requires:

- (1) "Advisory council" means the council appointed pursuant to section 22-58-104.
- (2) "Charter school" means a district charter school authorized pursuant to part 1 of article 30.5 of this title or an institute charter school authorized pursuant to part 5 of article 30.5 of this title.
- (3) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.
- (4) "Pilot program" means the alternative school funding models pilot program created in section 22-58-103.
- (5) "School finance act" means the "Public School Finance Act of 1994", article 54 of this title.
- (6) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2010:** Entire article added, (HB 10-1183), ch. 174, p. 630, § 1, effective April 29.

**22-58-103. Alternative school funding models pilot program - created - application - waivers - funding.** (1) There is hereby created in the department of education the alternative school funding models pilot program to encourage school districts and charter schools to identify and collect data to measure the effects if an alternative model of calculating school funding were applied compared to actual per pupil funding that a school district or charter school receives. A school district or charter school that chooses and is selected to participate in the pilot program shall collect data for at least two budget years that demonstrate the effects of an alternative school funding model selected by the participating school district or charter school, including but not limited to the differences in funding that the school district or charter school would have experienced if it had been funded through the alternative school funding model rather than under the current school finance act. The participating school district or charter school shall submit the collected data and any conclusions to the advisory council no later than September 1 of the budget year following the budget year for which the data is collected.

(2) On or before September 1, 2010, and on or before September 1 each budget year thereafter through 2013, a school district or charter school that chooses to participate in the pilot program shall apply to the state board by submitting a description of the alternative school funding model it will investigate, including at a minimum:

(a) Whether the model is based on per pupil funding or some other unit measure of funding or uses another basis for determining the amount of funding and the manner of counting the units, if any;

(b) An explanation of how education funding is calculated under the model;

(c) Any incentives that the school district or charter school expects the model to provide and the anticipated outcomes or effects of applying the model;

(d) The manner in which the school district or charter school will measure the effects of applying the model; and

(e) The benefits of, obstacles to, or restrictions on implementing the model statewide that the school district or charter school may identify.

(3) Notwithstanding any provision of this article to the contrary, a charter school that applies to participate in the pilot program shall first obtain the written consent of its authorizer and shall submit a copy of the written consent with its application.

(4) A school district is encouraged to partner with one or more other school districts, a board of cooperative services, or one or more charter schools in applying to participate in the pilot program. A school district may also, with the consent of one or more innovation schools or charter schools of the school district, choose to test an alternative school funding model on a limited basis within said consenting schools.

(5) The commissioner and the advisory council shall review the applications received pursuant to this section and recommend applicants to the state board for selection. The state board, after reviewing the applications and considering the recommendations of the commissioner and the advisory council, shall select the school districts and charter schools that will participate in the pilot program.

(6) (a) A school district or charter school that the state board selects to participate in the pilot program shall submit to the state board a list of any statutes in this title or state board rules for which it needs waivers in order to collect data and measure the effects that the alternative school funding model would have if implemented. The state board may waive the statutes or rules specified on the list; except that:

(I) The school district or charter school shall be required to meet the performance targets specified for the school district or charter school pursuant to article 11 of this title; and

(II) The state board may not waive the provisions of the "Licensed Personnel Performance Evaluation Act", article 9 of this title; the "Colorado Educator Licensing Act of 1991", article 60.5 of this title; or the "Teacher Employment, Compensation, and Dismissal Act of 1990", article 63 of this title.

(b) Any waiver granted by the state board pursuant to this subsection (6) shall not extend beyond the repeal of this article.

(7) A school district or charter school that the state board selects for participation in the pilot program may seek, accept, and expend public or private gifts, grants, or donations to offset the costs incurred in participating in the pilot program.

**Source: L. 2010:** Entire article added, (HB 10-1183), ch. 174, p. 630, § 1, effective April 29.

**22-58-104. Advisory council - created - duties - reporting - funding.** (1) There is hereby created the advisory council for the pilot program, which council shall consist of eleven members appointed on or before July 1, 2010, as follows:

(a) Four members of the general assembly, appointed one each by the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate;

(b) Two members of the state board appointed by the chair of the state board who are not members of the same political party;

(c) A member appointed by the state board who has expertise in school finance;

(d) A member appointed by the state board from a statewide organization that represents teachers;

(e) A member appointed by the state board from a statewide organization that represents school district boards of education;

(f) A member appointed by the state board from a statewide organization that represents school executives; and

(g) The commissioner of education or his or her designee.

(2) (a) The members of the advisory council shall serve at the pleasure of the appointing authority. If a vacancy arises on the advisory council, the applicable appointing authority shall appoint a new member who meets the qualifications for the office specified in subsection (1) of this section.

(b) The members of the advisory council shall serve without compensation. The members of the advisory council shall also serve without reimbursement for expenses; except that the advisory council may receive reimbursement if the advisory council receives moneys pursuant to subsection (5) of this section in an amount sufficient to reimburse the members' expenses.



(3) The advisory council shall review the applications received pursuant to section 22-54-103 and recommend applicants to the state board for selection.

(4) Upon receipt of the data collected by participating school districts and charter schools, the advisory council shall review the data and annually prepare a summary report for the state board, the governor’s office, and the general assembly. On or before January 15, 2012, and on or before January 15 each year thereafter through 2015, the advisory council shall submit the summary report to the state board, the governor, and the education committees of the house of representatives and the senate, or any successor committees.

(5) The advisory council may seek, accept, and expend public or private gifts, grants, or donations or services in kind to assist the advisory council in implementing the pilot program. Any moneys received pursuant to this subsection (5) shall be credited to the legislative department cash fund created in section 2-2-1601, C.R.S.

**Source: L. 2010:** Entire article added, (HB 10-1183), ch. 174, p. 632, § 1, effective April 29.

**22-58-105. Repeal of article.** This article is repealed, effective July 1, 2015. Notwithstanding the provisions of section 2-3-1203, C.R.S., the advisory council shall not be subject to review prior to repeal.

**Source: L. 2010:** Entire article added, (HB 10-1183), ch. 174, p. 633, § 1, effective April 29.

TEACHERS

ARTICLE 60

Teacher Certification

22-60-101 to 22-60-119. (Repealed)

**Editor’s note:** (1) This article was numbered as article 17 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1999, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-60-119 provided for the repeal of this article, effective July 1, 1999.

ARTICLE 60.5

Colorado Educator Licensing Act

PART 1		22-60.5-106.	Endorsement of license - effect.
GENERAL PROVISIONS		22-60.5-107.	Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization.
22-60.5-101.	Short title.	22-60.5-108.	Procedure - denial, suspension, annulment, or revocation - license, certificate, endorsement, or authorization.
22-60.5-102.	Definitions.		
22-60.5-103.	Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial.		
22-60.5-104.	Applicants for initial licensure - statement of completion of approved program of preparation.	22-60.5-109.	Hearing commissioner - duties.
		22-60.5-109.5.	Inactive status of licenses.
		22-60.5-110.	Renewal of licenses.
22-60.5-105.	Applicants for licensure or authorization - moral qualifications.	22-60.5-111.	Authorization - types - applicants’ qualifications - rules.
		22-60.5-112.	Fees - fund - repeal.
		22-60.5-112.5.	National credential - fee assistance - one-time payments.

- 22-60.5-113. Issuance of professional licenses to certificate holders. (Repealed)
- 22-60.5-114. State board of education - waivers.
- 22-60.5-115. Rules and regulations.
- 22-60.5-116. Evaluation of approved programs of preparation for teachers, principals, and administrators. (Repealed)
- 22-60.5-116.5. Education committees - evaluation of educator preparation programs - biennial joint meeting.
- 22-60.5-117. Prior certificates validated. (Repealed)
- 22-60.5-118. Educator licenses - holding simultaneously.
- 22-60.5-119. Applications for licenses - authority to suspend licenses - rules.
- 22-60.5-120. Provisional license - initial license - change of term.

## PART 2

## TEACHERS AND SPECIAL SERVICES PROVIDERS

- 22-60.5-201. Types of teacher licenses issued - term.
- 22-60.5-202. Professional teacher licensees - master certification.
- 22-60.5-203. Assessment of professional competencies - rules.
- 22-60.5-204. Approved induction program - initial teacher licensee.
- 22-60.5-205. One-year and two-year alternative teacher programs - legislative declaration - standards and evaluation - duties of department - duties of the state board of education - fees.
- 22-60.5-206. Alternative teacher support teams - duties - advisory councils.
- 22-60.5-207. Alternative teacher contracts.
- 22-60.5-208. Minority alternative teachers - fellowship program - minority alternative teacher fund - created. (Repealed)
- 22-60.5-209. Department of education - report to general assembly. (Repealed)
- 22-60.5-210. Types of special services licenses issued - term.
- 22-60.5-211. Professional special services licensees - master certification.
- 22-60.5-212. Assessment of professional competencies.
- 22-60.5-213. Approved induction programs - initial special services licensees.

- 22-60.5-214. Teacher and special services professional standards board - creation - membership - repeal. (Repealed)
- 22-60.5-215. Powers and duties of the teacher and special services professional standards board - repeal. (Repealed)
- 22-60.5-216. Teacher and special services professional standards board - annual joint meeting - repeal. (Repealed)
- 22-60.5-217. Teacher and special services professional standards board - examination for basic competencies. (Repealed)

## PART 3

## PRINCIPALS AND ADMINISTRATORS

- 22-60.5-301. Types of principal licenses issued - term.
- 22-60.5-302. Professional principal licensees - master certification.
- 22-60.5-303. Assessment of professional competencies.
- 22-60.5-304. Approved induction programs - initial principal licensees.
- 22-60.5-305. Licensed principals - occasional teaching.
- 22-60.5-305.5. Alternative principal preparation program.
- 22-60.5-306. Types of administrator licenses issued - term.
- 22-60.5-307. Professional administrator licensees - master certification.
- 22-60.5-308. Assessment of professional competencies.
- 22-60.5-309. Approved induction programs - initial administrator licensees.
- 22-60.5-309.5. Licensed administrators - occasional teaching.
- 22-60.5-310. Principal and administrator professional standards board - creation - membership - repeal. (Repealed)
- 22-60.5-311. Powers and duties of the principal and administrator professional standards board - repeal. (Repealed)
- 22-60.5-312. Principal and administrator professional standards board - annual joint meeting - repeal. (Repealed)
- 22-60.5-313. Principal and administrator professional standards board - examination for basic competencies. (Repealed)

## PART 4

## MISCELLANEOUS PROVISIONS

- 22-60.5-401. Educator professional stan-



	dards board - creation - membership. (Repealed)	22-60.5-403.	Use of term “certificated” - repeal. (Repealed)
22-60.5-402.	Powers and duties of the educator professional standards board. (Repealed)	22-60.5-404.	Change of term - direction to revisor. (Repealed)

PART 1

GENERAL PROVISIONS

**22-60.5-101. Short title.** This article shall be known and may be cited as the “Colorado Educator Licensing Act of 1991”.

**Source: L. 91:** Entire article added, p. 468, § 1, effective June 6.

**22-60.5-102. Definitions.** As used in this article, unless the context otherwise requires:

- (1) “Accepted institution of higher education” means an institution of higher education that offers at least the standard bachelor’s degree and is recognized by one of the following regional associations: The western association of schools and colleges; northwest association of schools, colleges, and universities; north central association of colleges and schools; New England association of schools and colleges; southern association of colleges and schools; or middle states association of colleges and secondary schools.
- (2) “Accredited independent school” means any independent school which is accredited by the state board of education pursuant to the rules and regulations of said board.
- (3) “Administrator” means any person who administers, directs, or supervises the education instructional program, or a portion thereof, in any school or school district in the state and who is not the chief executive officer or an assistant chief executive officer of such school.
- (4) “Alternative teacher contract” means a contract, as described in section 22-60.5-207, entered into for an alternative teacher position by a holder of an alternative teacher license pursuant to section 22-60.5-201 (1) (a) and a school district, accredited nonpublic school, or board of cooperative services that provides a one-year or two-year alternative teacher program.
- (5) “Alternative teacher program” means a one-year or two-year program of study and training for teacher preparation, as described in section 22-60.5-205, for a person of demonstrated knowledge and ability who holds an alternative teacher license pursuant to section 22-60.5-201 (1) (a). An “alternative teacher program” shall meet the standards of and obtain the approval of the state board of education and, upon completion, lead to a recommendation for licensure by the designated agency providing the alternative teacher program.
- (6) “Alternative teacher support team” means a team established by the designated agency for each holder of an alternative teacher license employed as an alternative teacher. At a minimum, each alternative teacher support team shall be composed of the alternative teacher’s mentor teacher and the principal and a representative of an accepted institution of higher education.
- (7) “Approved induction program” means a program of continuing professional development for initial licensees that meets the standards of the state board of education and that upon completion leads to a recommendation for licensure by the school district or districts providing such induction program.
- (8) (a) “Approved program of preparation” means a program of study for preparation that is approved by the Colorado commission on higher education pursuant to section 23-1-121, C.R.S., and that upon completion leads to a recommendation for licensure by an accepted institution of higher education.
- (b) Every “approved program of preparation” for principals or administrators shall include proficiencies in the principles of business management and budgeting practices and in the analysis of student assessment data and its use in planning for student instruction.

(9) "Board of education" means the governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. "Board of education" includes a board of cooperative services organized pursuant to article 5 of this title.

(9.5) "Department" means the department of education, created in section 24-1-115, C.R.S.

(10) "Designated agency" means a school district or districts, an accredited nonpublic school, a board of cooperative services, an accepted institution of higher education, or a nonprofit organization, or any combination thereof, which is responsible for the organization, management, and operation of an approved alternative teacher program.

(11) "Endorsement" means the designation on a license or an authorization of grade level or developmental level, subject matter, or service specialization in accordance with the preparation, training, and experience of the holder of such license or authorization.

(12) "Mentor administrator" means any administrator who is designated by the school district or districts providing an approved induction program for initial administrator licensees and who has demonstrated outstanding administrative skills and school leadership and can provide exemplary modeling and counseling to initial administrator licensees participating in an approved induction program.

(13) "Mentor principal" means any principal who is designated by the school district or districts providing an approved induction program for initial principal licensees and who has demonstrated outstanding principal skills and school leadership and can provide exemplary modeling and counseling to initial principal licensees participating in an approved induction program.

(14) "Mentor special services provider" means any special services provider who is designated by the school district or districts providing an approved induction program for initial special services licensees and who has demonstrated outstanding special services provider skills and school leadership and can provide exemplary modeling and counseling to initial special services licensees participating in an approved induction program.

(15) "Mentor teacher" means:

(a) Any teacher who is designated by the school district or accredited independent school employing an alternative teacher and who has demonstrated outstanding teaching and school leadership and can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

(b) Any teacher who is designated by the school district or districts providing an approved induction program for initial teacher licensees and who has demonstrated outstanding teaching and school leadership and can provide exemplary modeling and counseling to initial teacher licensees participating in an approved induction program.

(16) "Principal" means any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs, or supervises the education instructional program in such school.

(17) "School" means any of the public schools of the state.

(18) "School district" means any school district organized and existing pursuant to law, but it does not include junior or community college districts. "School district" includes a board of cooperative services organized pursuant to article 5 of this title.

(19) "Special services provider" means any person other than a teacher, principal, or administrator who is employed by any school district to provide professional services to students in direct support of the education instructional program.

(20) "State board of education" means the state board of education established by section 1 of article IX of the state constitution.

(21) "Teacher" means any person employed to instruct students in any school in the state.

**Source:** L. 91: Entire article added, p. 468, § 1, effective June 6. L. 97: (8) amended, p. 43, § 1, effective March 20. L. 99: (8)(a) amended, p. 1191, § 5, effective June 1. L. 2004: (1) and (11) amended, p. 1271, § 1, effective May 28. L. 2005: (7), (12), (13),



(14), and (15)(b) amended, p. 174, § 6, effective April 7. **L. 2007:** (4) and (5) amended, p. 55, § 1, effective March 14. **L. 2009:** (4), (5), and (10) amended and (9.5) added, (SB 09-160), ch. 292, p. 1447, § 2, effective May 21.

**22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial.** (1) (a) Prior to submitting to the department of education an application for any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111, each applicant shall submit to the Colorado bureau of investigation a complete set of fingerprints of such applicant taken by a qualified law enforcement agency, unless the applicant previously submitted a complete set of his or her fingerprints to the department of education or the Colorado bureau of investigation in connection with an application for a license or authorization specified in this article 60.5. The applicant shall submit the fingerprints for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation to determine whether the applicant for licensure or authorization has a criminal history. The applicant shall pay to the Colorado bureau of investigation the fee established by the bureau for conducting the criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the department of education.

(b) Any person applying for any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111 or for renewal of such license or authorization or for any master certificate specified in section 22-60.5-202, 22-60.5-211, 22-60.5-302, or 22-60.5-307 shall submit to the department of education at the time of application a completed form as specified in subsection (2) of this section.

(2) (a) On a form provided by the department of education, an applicant shall certify, under penalty of perjury, either:

(I) That he has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(II) That he has been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. Such certification shall specify such felony or misdemeanor for which convicted, the date of such conviction, and the court entering the judgment of conviction.

(b) For the purposes of paragraph (a) of this subsection (2), a person is deemed to have been convicted of committing a felony or misdemeanor if such person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would have been a felony or misdemeanor.

(c) For the purposes of this section, "convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure the appearance by a person charged with having committed a felony or misdemeanor, the payment of a fine, a plea of nolo contendere, the imposition of a deferred or suspended sentence by the court, or an agreement for a deferred prosecution approved by the court.

(3) In addition to any other requirements established by law for the issuance or renewal of any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111, the submittal of fingerprints and forms pursuant to the provisions of subsection (1) of this section shall be a prerequisite to the issuance or renewal of such license or authorization by the department of education. Said department shall not issue or renew any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or any authorization specified in section 22-60.5-111 to any person making application who does not comply with the provisions of subsection (1) of this section.

(4) To facilitate a criminal history record check conducted pursuant to subsection (1) of this section, the department of education may conduct a search on the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., and may use any other available source of criminal history information that the department of education

determines is appropriate, including obtaining records from any law enforcement agency and juvenile delinquency records pursuant to section 19-1-304, C.R.S. The department of education may use the specified sources to determine any crime or crimes for which the person was arrested or charged and the disposition of any criminal charges.

(5) (Deleted by amendment, L. 2006, p. 925, § 5, effective July 1, 2006.)

(5.5) For the purposes of this section, the department of education is a criminal justice agency as that term is defined in section 24-72-302 (3), C.R.S. Law enforcement agencies shall cooperate with the department of education when the department conducts a criminal history record check pursuant to this section.

(6) (a) When the department of education finds probable cause to believe that an educator licensed or authorized pursuant to this article has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization, the department of education shall require the educator to submit a complete set of the educator's fingerprints taken by a qualified law enforcement agency. The educator shall submit the fingerprints within thirty days after receipt of the written request for fingerprints from the department of education. The department of education shall deny, suspend, annul, or revoke, pursuant to section 22-60.5-107 (2.5), the educator's license or authorization if he or she fails to submit fingerprints on a timely basis pursuant to this subsection (6).

(b) The department of education shall forward fingerprints submitted pursuant to this subsection (6) to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation, to determine whether the educator has a criminal history. In addition, the department of education may use the records of the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., or any other source available, including obtaining records from any law enforcement agency and juvenile delinquent records pursuant to section 19-1-304, C.R.S., to ascertain whether the educator has been convicted of an offense described in section 22-60.5-107 (2), (2.5), or (2.6).

**Source:** L. 91: Entire article added, p. 471, § 1, effective June 6. L. 97: (1) and (3) amended, p. 1653, § 1, effective June 5. L. 99: (2)(c) amended, p. 1103, § 6, effective July 1. L. 2003: (1), (2)(c), and (4) amended and (6) added, p. 2516, § 7, effective June 5. L. 2005: (5) amended, p. 175, § 7, effective April 7. L. 2006: (1)(a), (4), and (5) amended, p. 925, § 5, effective July 1. L. 2008: (4) and (6)(b) amended and (5.5) added, p. 1665, § 6, effective May 29. L. 2011: (6)(b) amended, (HB 11-1121), ch. 242, p. 1058, § 5, effective August 10.

**Cross references:** In 2011, subsection (6)(b) was amended by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-60.5-104. Applicants for initial licensure - statement of completion of approved program of preparation.** (1) Each applicant for any initial license issued pursuant to the provisions of this article may be required to submit a statement from the designated recommending official of the accepted institution of higher education. Such statement shall certify that the applicant has completed the approved program of preparation appropriate to the initial license being applied for in a satisfactory manner and is in good standing. Such statement shall not be required for the renewal of such license.

(2) If an applicant for an initial principal license or an initial administrator license is required to submit a statement from the designated recommending official of an accepted institution of higher education pursuant to subsection (1) of this section, he shall be provided with an opportunity to submit statements from two or more such designated recommending officials at different accepted institutions of higher education, each of which statements certifies partial completion of an approved program of preparation appropriate to the initial license being applied for in a satisfactory manner. Pursuant to the rules and regulations of the state board of education, the department of education shall provide a procedure through which such statements of partial completion of an approved program



may be combined to certify regular completion of an approved program of preparation. The combination of such statements shall result in a combined approved program of preparation when it is, in the judgment of the department of education, at least the equivalent of the regular approved program of preparation at any one of the accepted institutions of higher education of attendance. Any reference in this article to completion of an approved program shall be deemed to include reference to partial completion of two or more approved programs combined pursuant to this subsection (2).

**Source: L. 91:** Entire article added, p. 473, § 1, effective June 6. **L. 2005:** Entire section amended, p. 175, § 8, effective April 7.

**22-60.5-105. Applicants for licensure or authorization - moral qualifications.** In determining the moral qualifications of applicants for licensure or authorization, the department of education shall be governed by the provisions of section 24-5-101, C.R.S.

**Source: L. 91:** Entire article added, p. 474, § 1, effective June 6.

**22-60.5-106. Endorsement of license - effect.** (1) The department of education is authorized to cause a license to be endorsed. Any such endorsement shall identify the grade, age, or developmental level or levels, subject matter area or areas, or other specialization appropriate to an applicant's preparation, training, or experience. Any endorsement made pursuant to this section shall be subject to review at the expiration of the license so endorsed. The state board of education may establish, by rule and regulation, appropriate endorsements and the criteria for such endorsements.

(2) Notwithstanding the discretionary authority granted in subsection (1) of this section, the department of education shall issue a special education teacher endorsement to an applicant who completes course work and assessments, as specified by rule of the state board of education, in a program in special education offered by an accepted institution of higher education, which program has been approved by the state board of education.

**Source: L. 91:** Entire article added, p. 474, § 1, effective June 6. **L. 96:** Entire section amended, p. 1785, § 1, effective June 3. **L. 2005:** (2) amended, p. 172, § 1, effective April 7.

**22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization.** (1) If any person obtains or attempts to obtain any license, certificate, endorsement, or authorization pursuant to the provisions of this article through misrepresentation or fraud or through misleading information or an untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth, such license, certificate, endorsement, or authorization may be annulled or denied by the department of education in the manner prescribed in section 22-60.5-108.

(2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(a) When the holder has been determined to be mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the holder is incapable of continuing to perform his or her job; except that the license, certificate, endorsement, or authorization held by a person who has been determined to be mentally incompetent and for whom such an order has been entered shall be revoked or suspended by operation of law without a hearing, notwithstanding the provisions of section 22-60.5-108;

(b) When the applicant or holder is convicted of, pleads nolo contendere to, or receives a deferred sentence for a violation of any one of the following offenses:

(I) Misdemeanor sexual assault as described in section 18-3-402, C.R.S.;

(II) Misdemeanor unlawful sexual conduct as described in section 18-3-404, C.R.S.;

(III) Misdemeanor sexual assault on a client by a psychotherapist as described in section 18-3-405.5, C.R.S.;

(IV) Misdemeanor child abuse as described in section 18-6-401, C.R.S.;

(V) Repealed.

(VI) A misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S., and the conviction is a second or subsequent conviction for the same offense;

(VII) Contributing to the delinquency of a minor as described in section 18-6-701, C.R.S.;

(VII.5) A misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403 (3) (b.5), C.R.S.; or

(VIII) A crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in subparagraphs (I) to (VII) of this paragraph (b);

(c) When the applicant or holder is found guilty of or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102 (5), C.R.S.;

(d) When the applicant or holder is found guilty of a felony, other than a felony described in subsection (2.5) or (2.6) of this section, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in subsection (2.5) or (2.6) of this section, in this state or, under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in subsection (2.5) or (2.6) of this section, when the commission of said felony, in the judgment of the state board of education, renders the applicant or holder unfit to perform the services authorized by his or her license, certificate, endorsement, or authorization;

(e) When the applicant or holder has received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and the offense was committed within the ten years preceding the date of application for a license, certificate, endorsement, or authorization pursuant to this article;

(f) When the applicant or holder has forfeited any bail, bond, or other security deposited to secure the appearance by the applicant or holder who is charged with having committed a felony or misdemeanor, has paid a fine, has entered a plea of nolo contendere, or has received a deferred or suspended sentence imposed by the court for any offense described in subparagraph (I) or (II) of paragraph (a) of subsection (2.5) of this section or in subsection (2.6) of this section.

(2.5) (a) A license, certificate, endorsement, or authorization shall be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section to the contrary, in the following circumstances:

(I) When the applicant or holder is convicted of one of the following offenses:

(A) Felony child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(C) A felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(D) Except as provided in paragraph (c) of this subsection (2.5), a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) A felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in sub-subparagraphs (A) to (D) of this subparagraph (I);



(II) When the applicant or holder is convicted of indecent exposure, as described in section 18-7-302, C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this subparagraph (II);

(III) When the applicant or holder has received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult; or

(IV) When the applicant or holder fails to submit fingerprints on a timely basis after receipt of the written request from the department of education pursuant to section 22-60.5-103 (6) (a).

(b) For purposes of this subsection (2.5), “convicted” or “conviction” means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court.

(c) The grounds for mandatory denial, annulment, suspension, or revocation of a license, certificate, endorsement, or authorization pursuant to sub-subparagraph (D) of subparagraph (I) of paragraph (a) of this subsection (2.5) shall only apply for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court.

(2.6) (a) In addition to the offenses described in subsection (2.5) of this section, the state board of education shall deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization if the applicant for or holder of the license, certificate, endorsement, or authorization is convicted of a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed on or after August 25, 2012. The requirement that the state board of education deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization shall only apply for a period of five years following the date the offense was committed.

(b) Nothing in this subsection (2.6) shall limit the authority of the state board of education to deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization if the applicant or holder is convicted of a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed prior to August 25, 2012.

(c) For purposes of this subsection (2.6), “convicted” or “conviction” means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court.

(2.7) Notwithstanding any other provision of subsection (2.5) of this section to the contrary, if the state board determines a person who held a license, certificate, endorsement, or authorization prior to June 6, 1991, has been convicted of an offense described in subsection (2.5) of this section, the state board may annul, suspend, or revoke a license, certificate, endorsement, or authorization in the manner prescribed in section 22-60.5-108, unless the holder was previously afforded the rights set forth in section 22-60.5-108 with respect to the offense and the holder received or retained his or her license, certificate, endorsement, or authorization as a result.

(3) A certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence shall be conclusive evidence for the purposes of paragraphs (b) and (c) of subsection (2) of this section. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea shall be conclusive evidence for the purposes of subsections (2.5) and (2.6) of this section. Upon receipt of a certified copy of the judgment, the department of education may take immediate action to deny, annul, or suspend any license, certificate, endorsement, or authorization without a hearing, notwithstanding the provisions of section 22-60.5-108. The department of education may revoke a suspended license based on a violation of paragraph (b) or (c) of subsection (2) of this section and shall revoke a suspended license based on a violation of subsection (2.5) or (2.6) of this section without a hearing and without any further action, after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed, and upon the entry of a final judgment.

(4) The department of education may deny, annul, suspend, or revoke any license, certificate, endorsement, or authorization if the state board finds and determines that the applicant or holder thereof is professionally incompetent or guilty of unethical behavior.

(5) The state board of education shall promulgate appropriate rules defining the standards of unethical behavior and professional incompetency.

(6) The state board of education may promulgate, pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S., such rules as it may deem necessary to establish procedures for the filing and investigation of complaints alleging conduct that, if true, may establish grounds for denying, annulling, revoking, or suspending an educator license or certificate.

(7) In the manner prescribed in section 22-60.5-108, the department of education may suspend a license, certificate, endorsement, or authorization when the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving the written notice required by section 22-63-202 (2) (b).

(8) When an applicant's or holder's license is denied, annulled, suspended, or revoked pursuant to the provisions of subsection (2.5) or (2.6) of this section, the department of education shall post the name of the person and basis for the denial, annulment, suspension, or revocation on its web site.

(9) In furtherance of its duties under this section and section 22-60.5-103, the department of education may conduct a search on the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., and may use any other available source of criminal history information the department of education deems appropriate, including obtaining records from any law enforcement agency and juvenile delinquency records pursuant to section 19-1-304, C.R.S.

**Source:** **L. 91:** Entire article added, p. 474, § 1, effective June 6. **L. 94:** (2)(a) amended, p. 1636, § 47, effective May 31. **L. 99:** (2)(b) and (3) amended, p. 1103, § 7, effective July 1. **L. 2000:** (5) amended, p. 1099, § 2, effective August 2. **L. 2003:** (2) and (3) amended and (2.5) and (2.7) added, p. 2517, § 8, effective June 5. **L. 2005:** (6) added, p. 172, § 2, effective April 7. **L. 2006:** (1), IP(2)(b), (2)(c), (2.5)(a)(II), (4), and (5) amended and (2)(b)(VIII) and (7) added, pp. 922, 923, §§ 2, 3, effective July 1; (2)(b)(V) repealed, p. 2044, § 4, effective July 1. **L. 2008:** (2)(b)(VII) amended and (2)(b)(VII.5) and (9) added, p. 1666, §§ 7, 8, effective May 29; (8) added, p. 2227, § 5, effective June 5. **L. 2010:** (2)(a) amended, (SB 10-175), ch. 188, p. 794, § 48, effective April 29. **L. 2011:** (2)(d), (2)(f), (2.5)(a)(I)(D), (2.5)(b), (3), and (8) amended and (2.5)(c) and (2.6) added, (HB 11-1121), ch. 242, pp. 1058, 1060, §§ 6, 7, effective August 10. **L. 2012:** (2)(c) amended, (HB 12-1311), ch. 281, p. 1626, § 66, effective July 1.

**Cross references:** In 2011, subsections (2)(d), (2)(f), (2.5)(a)(I)(D), (2.5)(b), (3), and (8) were amended and subsections (2.5)(c) and (2.6) were added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-60.5-108. Procedure - denial, suspension, annulment, or revocation - license, certificate, endorsement, or authorization.** (1) (a) Procedures for the denial, suspension, revocation, or annulment of any license, certificate, endorsement, or authorization shall be in accordance with the provisions of sections 24-4-102 to 24-4-107, C.R.S.; except that, where judicial review is pending or the time in which to seek judicial review has not elapsed, the department of education may take emergency action relating to the annulment, suspension, or revocation of any license, certificate, endorsement, or authorization, and the expiration date of any license, certificate, endorsement, or authorization shall not be extended, even though judicial review is pending or the time for seeking such review has not elapsed.

(b) If the department of education seeks to contact a crime victim for the purposes of a licensure hearing, the department shall contact the victim's advocate in the law enforcement agency or district attorney's office of the jurisdiction in which the offense was prosecuted or the victim's advocate in the attorney general's office, if applicable. The victim's advocate shall make reasonable efforts to contact the victim, advise the victim of the hearing, and invite the victim to participate in the licensure hearing. A victim shall not be required to participate in a licensure hearing.



(2) If the department of education denies, annuls, suspends, or revokes a license, authorization, or endorsement pursuant to this section, the department, as soon as practicable, shall notify the board of education of the employing school district or the governing board of the employing charter school or institute charter school, if any, of the action taken.

(3) When the department of education denies, annuls, suspends, or revokes a license, certificate, endorsement, or authorization because the applicant or holder was convicted of felony child abuse or a felony offense involving unlawful sexual behavior pursuant to section 22-60.5-107 (2.5), the department shall release the name of that individual to the public.

(4) When the department of education denies, annuls, or revokes a license, certificate, endorsement, or authorization because the applicant or holder was convicted of felony child abuse or a felony offense involving unlawful sexual behavior pursuant to section 22-60.5-107 (2.5), the department shall enter into a settlement agreement with that individual that prohibits the individual from ever teaching at a public or private school in the United States.

**Source:** **L. 91:** Entire article added, p. 476, § 1, effective June 6. **L. 2008:** Entire section amended, p. 1667, § 9, effective May 29; entire section amended, p. 2227, § 6, effective June 5. **L. 2009:** (4) amended, (SB 09-292), ch. 369, p. 1965, § 68, effective August 5.

**Editor's note:** Amendments to this section by House Bill 08-1344 and Senate Bill 08-208 were harmonized.

**22-60.5-109. Hearing commissioner - duties.** The state board of education is authorized to appoint a hearing commissioner, who may preside at hearings on the denial, annulment, suspension, or revocation of any license, certificate, endorsement, or authorization. When so appointed, he shall reduce his findings to written form and submit them to the state board of education, and he shall not participate in the deliberations of said board.

**Source:** **L. 91:** Entire article added, p. 476, § 1, effective June 6.

**22-60.5-109.5. Inactive status of licenses.** (1) Any person who holds a professional license issued pursuant to this article may choose to convert the professional license to inactive status by notifying the department of education in writing and simultaneously transferring, either in person or by first-class mail, the professional license to the department of education. While on inactive status, the expiration date of a professional license shall be suspended. When the professional license is returned to active status, it shall be valid for the period remaining on the license as of the date the license holder assumed inactive professional license status. While on inactive professional license status, the person shall be deemed to not hold a professional license.

(2) (a) A person may return a professional license to active status at any time by notifying the department of education in writing, either in person or by first-class mail, and simultaneously requesting the return of his or her professional license from the department of education. Upon receipt of notice to return to active status, the department of education shall reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license holder converted to inactive professional license status. The department shall return the reissued license to the license holder within thirty days after receiving notice to return to active status. Upon receipt of the professional license, the license holder shall resume active status.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if a person converts his or her professional license to inactive status because the person is called into the active military service of the United States or the state of Colorado, when the person notifies the department of education of his or her intent to return the professional license to active status, the person may include with the notice a copy of the official notice of honorable discharge or release from active service. Upon receipt of the notice to return to active status and the evidence of honorable discharge or release, the department of

education shall reissue the professional license with a new expiration date reflecting a period equal to the period remaining on the professional license as of the date the license holder converted to inactive professional license status plus the period during which the person was in active military service.

(3) Any person who is on inactive status pursuant to this section may, but is not required to, complete professional development activities while on inactive status. Any professional development activities completed while on inactive status shall apply to renewal of the person's professional license after the person returns to active status, so long as:

(a) The person submits to the department of education evidence of completion of the professional development activities;

(b) The professional development activities meet the criteria specified by the state board of education pursuant to section 22-60.5-110 (3); and

(c) The professional development activities are completed within the five years preceding the date on which the professional license will expire after it is returned to active status.

**Source:** L. 97: Entire section added, p. 1657, § 7, effective June 5. L. 2005: (2) amended, p. 172, § 3, effective April 7.

**22-60.5-110. Renewal of licenses.** (1) Any license shall expire as prescribed in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306, subject to the provisions of section 24-4-104 (7), C.R.S., when applicable.

(2) Any initial license may be renewed upon submitting an application for renewal, payment of the statutory fee, and evidence of satisfying any requirements established by rule and regulation of the state board of education.

(3) (a) A licensee may renew his or her professional license by submitting an application for renewal, paying the fee established by the state board of education pursuant to section 22-60.5-112, and providing the affidavit of satisfactory completion of ongoing professional development as described in paragraph (a.5) of this subsection (3). A licensee need not be employed as a professional educator during all or any portion of the term for which his or her professional educator license is valid. Employment as a professional educator shall not constitute a requirement for renewal of a professional license. Except as otherwise provided in paragraph (e) of this subsection (3), the professional development activities completed by an applicant for license renewal shall apply equally to renewal of any professional educator license or endorsement held by the applicant.

(a.5) A licensee who seeks renewal of his or her professional license shall sign and submit with the renewal application an affidavit in which the licensee affirms under oath that he or she satisfactorily completed the ongoing professional development activities specified in the affidavit; that the activities were completed within the term of the professional license; and that, to the best of the licensee's knowledge, the activities meet the requirements of this section and rules adopted by the state board of education implementing this section. The department may accept a licensee's affidavit of satisfactory completion of ongoing professional development as proof of completion of the specified professional development activities without further verification.

(b) A professional licensee shall complete such ongoing professional development within the period of time for which such professional license is valid. Such professional development may include, but need not be limited to, in-service education programs, including programs concerning juvenile mental health issues and the awareness and prevention of youth suicide; college or university credit from an accepted institution of higher education or a community, technical, or junior college; educational travel that meets the requirements specified in paragraph (d) of this subsection (3); involvement in school reform; internships; and ongoing professional development training and experiences. The state board of education, by rule, may establish minimum criteria for professional development; except that such criteria shall not:

(I) Specify any particular type of professional development activity as a requirement or partial requirement for license renewal;



(II) Require completion of more than six credit hours or more than ninety total clock hours of activities during the term of any professional license;

(III) Prescribe a schedule for completion of professional development activity during the term of any professional license; or

(IV) Require prior approval or supervision of professional development activities.

(b.5) In adopting minimum criteria for professional development activities, the state board, by rule, may require all or a portion of the professional development activities to be related to increasing the license holder's competence in his or her existing or potential endorsement area or to increasing the professional licensee's skills and competence in delivery of instruction in his or her existing or potential endorsement area or in the teaching of literacy.

(c) In selecting professional development activities for the renewal of a professional license pursuant to this section, each licensee shall choose those activities that will aid the licensee in meeting the standards for a professional educator, including but not limited to the following goals:

(I) Knowledge of subject matter content and learning, including knowledge and application of standards-based education pursuant to part 4 of article 7 of this title;

(II) Effective use of assessments in planning for instructional delivery and in individualizing student instruction;

(III) Effective teaching of the democratic ideal;

(IV) Recognition, appreciation, and support for ethnic, cultural, gender, economic, and human diversity to provide fair and equitable treatment and consideration for all;

(V) Effective communication with students, colleagues, parents, and the community;

(VI) Effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues;

(VII) Effective leadership to ensure a school community that is committed to and focused on learning;

(VIII) Consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics, and citizenship in self and others;

(IX) Achievement as a continuous learner who encourages and supports personal and professional development of self and others;

(X) Effective organization and management of human and financial resources to create a safe and effective working and learning environment; and

(XI) Awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students and knowledge of the community resources available to enhance the health and safety of students and the school community.

(d) To be accepted as a professional development activity, educational travel shall be applicable to the endorsement area of the professional licensee's license, as demonstrated by the professional licensee.

(e) In selecting professional development activities for renewal of a professional principal license, the professional licensee shall select activities that are specific to improving his or her skills as a principal. In addition, if the school district in which the professional licensee is employed has identified, pursuant to section 22-9-106, specific areas in which he or she needs improvement or, pursuant to section 22-32-109 (1) (jj), specific professional development programs to assist the professional licensee in improving his or her skills as a principal, the professional licensee shall complete activities in those identified areas or shall complete those specific programs. In reviewing the professional licensee's application for license renewal, the department shall deny the application for renewal if the professional licensee does not comply with the requirements specified in this paragraph (e).

(4) Any applicant whose application for renewal of any license has been denied may appeal to the state board of education. If the state board of education finds that the applicant has met the criteria established by this section and by rule and regulation of the state board of education, the renewal of the license shall be approved by said board.

(5) Any person whose professional license or master certificate is not renewed may reinstate his or her professional license or master certificate by submitting to the department of education such information or other evidence as may be necessary to cure the defect that resulted in nonrenewal of the professional license or master certificate and by paying the

reinstatement fee set by the state board of education pursuant to section 22-60.5-112. Such curative information or evidence includes but is not limited to evidence of completion of professional development requirements, as specified in subsection (3) of this section, where the license or master certificate is not renewed because of failure to complete such requirements. Prior to reinstatement, any licensee whose professional license or master certificate is not renewed shall be deemed to not hold a professional license or master certificate. No person shall be required to demonstrate professional competencies in order to reinstate a professional license or master certificate.

**Source:** **L. 91:** Entire article added, p. 476, § 1, effective June 6. **L. 97:** (3) amended and (5) added, pp. 1654, 1657, §§ 3, 5, effective June 5. **L. 98:** (3)(c)(I) amended, p. 991, § 15, effective July 1. **L. 2004:** (5) amended, p. 1286, § 21, effective May 28. **L. 2005:** (2), IP(3)(b), and (3)(c)(II) amended and (3)(b.5) and (3)(d) added, pp. 176, 173, §§ 9, 4, effective April 7. **L. 2006:** (3)(a) amended and (3)(e) added, p. 1240, § 3, effective May 26; IP(3)(b), (3)(c)(IX), and (3)(c)(X) amended and (3)(c)(XI) added, p. 251, § 1, effective August 7. **L. 2011:** (3)(a) amended and (3)(a.5) added, (HB 11-1201), ch. 139, p. 482, § 1, effective May 4.

**22-60.5-111. Authorization - types - applicants' qualifications - rules.** (1) Pursuant to the rules of the state board of education, the department of education may issue the authorizations specified in this section to persons of good moral character who meet the qualifications prescribed by this section and by the rules of the state board of education.

(2) **Adjunct instructor authorization.** (a) An adjunct instructor authorization certifies that a person is a specialist or an expert in a content area that is not available through an approved program of preparation, although the person has not received formal training in education. A school district may employ a person who has an adjunct instructor authorization to provide students with highly specialized academic enrichment that is in addition to and supportive of required content areas. The department of education may issue an adjunct instructor authorization to a person who applies to the department, providing such information as may be required by rule of the state board of education, including, at a minimum, documentation demonstrating the following:

(I) The applicant possesses outstanding talent and demonstrates specific abilities and knowledge in a particular area of specialization that is not included in an approved endorsement area, as specified in rule;

(II) A school district board of education has requested the applicant's services and requires the applicant's services, based upon evidence of a documented student need;

(III) The potential employing school district has documented evidence of the applicant's outstanding talent, specific abilities, and particular knowledge of the area of specialization;

(IV) The applicant has been employed for at least five years in the area of specialization or holds a bachelor's degree or higher degree in the area of specialization.

(b) An adjunct instructor authorization is valid for three years. The department of education may renew an adjunct instructor authorization for succeeding three-year periods at the employing school district's request. To request renewal, the employing school district, at a minimum, shall submit to the department of education documented evidence of continuing need within the school district for the adjunct instructor's services.

(3) **Special services intern authorization.** The department of education may issue an intern authorization to an applicant who holds at least a bachelor's degree from an accepted institution of higher education and who is enrolled in an approved program of preparation for a special services provider that requires completion of an internship. A person employed under an intern authorization shall work under the supervision of a person who holds a professional special services provider license. A school district may pay a person who is employed under an intern authorization. An intern authorization is valid for one academic year and may not be renewed.

(4) **Emergency authorization.** (a) The department may issue an emergency authorization to an applicant who is enrolled in an approved preparation program but has not yet



met the requirements for an initial educator license or a school speech-language pathology assistant authorization. The department may issue an emergency authorization if:

(I) A school district requests the emergency authorization to employ a nonlicensed teacher, principal, administrator, or special services provider, including but not limited to an unauthorized school speech-language pathology assistant who has a bachelor's degree in:

(A) Speech, language, and hearing sciences;

(B) Communications disorders-speech sciences; or

(C) Any other field if the unauthorized school speech-language pathology assistant has completed a minimum number of credits of course work in speech, language, and hearing sciences, which minimum number of credits is established by rules promulgated by the state board of education pursuant to paragraph (c) of subsection (10) of this section;

(II) The requesting school district submits to the department documented evidence of a demonstrated need for specific and essential educational services for students that the applicant would provide and that would otherwise be unavailable to students in the school district due to a shortage of licensed educators or authorized speech-language pathology assistants with appropriate endorsements; and

(III) The state board of education determines that employment of the applicant is essential to preservation of the school district's instructional program and that establishment of a one-year or two-year alternative teacher preparation program within the school district is not a practicable solution for resolution of the demonstrated shortage.

(b) An emergency authorization is valid for one year. If the state board of education determines that the employing school district continues to require the services of the person holding the emergency authorization, based on evidence submitted by the school district demonstrating the continued existence of the hardship circumstances described in subparagraphs (II) and (III) of paragraph (a) of this subsection (4), the state board of education may renew the emergency authorization for one additional year only.

(c) (I) A school district that employs a person who holds an emergency authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-213, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the emergency authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(II) If a person who is employed under an emergency authorization successfully completes an induction program and completes the requirements prescribed in section 22-60.5-201 (1) (b) (I), 22-60.5-210 (1) (a) (I), 22-60.5-301 (1) (a) (I), or 22-60.5-306 (1) (a) (I), whichever is applicable, for an initial educator license while employed under the emergency authorization, the department of education may issue a professional educator license to the person upon application.

(5) **Temporary educator eligibility authorization.** (a) The department of education may issue a temporary educator eligibility authorization to a person who is enrolled in an approved program of preparation for a special education educator or who is working to attain a special services provider initial license but who has not yet met the requirements for the applicable initial educator license. The department may issue the authorization under the following circumstances:

(I) A school district requests the temporary educator eligibility authorization to employ as a special education teacher or director or as a special services provider an applicant who does not yet meet the requirements to obtain the applicable initial educator license but who meets the eligibility criteria specified in paragraph (b) of this subsection (5);

(II) The requesting school district provides documented evidence of a demonstrated need for specific and essential educational services that the applicant would provide but that would otherwise be unavailable to students due to a shortage of licensed educators with the appropriate endorsement.

(b) An applicant for a temporary educator eligibility authorization shall:

(I) Be continuously enrolled in an approved or alternative program of preparation leading to a bachelor's degree or higher degree from an accepted institution of higher education; or

(II) Be enrolled in an approved or alternative special education or special education director preparation program offered by an accepted institution of higher education; or

(III) Be approved for a temporary educator eligibility authorization based on evidence that documents compliance with requirements specified by rule of the state board of education.

(c) In addition to the circumstances and criteria specified in paragraphs (a) and (b) of this subsection (5), the department of education may issue a temporary educator eligibility authorization to a special services provider who has met the minimum degree requirements necessary to practice in his or her area of specialization, but who has not completed the necessary national content examination or school practicum in the area of specialization. A school district may employ a person who holds a temporary educator eligibility authorization issued pursuant to this paragraph (c) only if the person is under the supervision of a professionally licensed person in the same area of specialization.

(d) A temporary educator eligibility authorization is valid for one year and may be renewed twice.

(e) (I) A school district that employs a person who holds a temporary educator eligibility authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-213, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the temporary educator eligibility authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(II) If a person who is employed under a temporary educator eligibility authorization successfully completes an induction program and completes the requirements prescribed in section 22-60.5-201 (1) (b) (I), 22-60.5-210 (1) (a) (I), or 22-60.5-306 (1) (a) (I), whichever is applicable, for an initial educator license while employed under the temporary educator eligibility authorization, the department of education may issue a professional educator license to the person upon application.

(6) **Substitute authorization.** A substitute authorization authorizes a school district to employ a person to teach on a substitute basis. A substitute authorization shall be valid for such periods of time as specified in, and may be renewed as authorized in, rules adopted by the state board of education.

(7) **Interim authorization.** (a) An interim authorization authorizes a school district to employ a person who is certified or licensed, or is eligible for certification or licensure, as a teacher, principal, or administrator in another state and who has not successfully completed the assessment of professional competencies to obtain an initial license under section 22-60.5-201 (1) (b), 22-60.5-301 (1) (a), or 22-60.5-306 (1) (a) but who meets the other requirements for an initial license specified in said sections. An interim authorization is valid for one year, and the department of education may renew the authorization for one additional year. The employing school district may include the period during which a person works under an interim authorization toward the three full years of continuous employment necessary to cease being a probationary teacher pursuant to section 22-63-103 (7).

(b) A school district that employs a person who holds an interim authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the interim authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(7.5) **Military spouse interim authorization.** (a) The department of education may issue a military spouse interim authorization that authorizes a school district to employ a person who:

(I) Is certified or licensed, or is eligible for certification or licensure, as a teacher, special services provider, principal, or administrator in another state and who has not successfully completed the assessment of professional competencies to obtain an initial license under section 22-60.5-201 (1) (b), 22-60.5-301 (1) (a), or 22-60.5-306 (1) (a) but who meets the other requirements for an initial license specified in said sections; and

(II) Is a military spouse.



(b) Prior to issuing an authorization under this section, the department of education may contract with a qualified third party to work with a military spouse to meet the requirements of section 22-60.5-103 concerning a fingerprint-based criminal history record check.

(c) The Colorado bureau of investigation shall return the results of each fingerprint-based criminal history record check submitted pursuant to this section to the department of education no later than sixty days following receipt of the request.

(d) A military spouse interim authorization is valid for one year, and the department of education may renew the authorization for one additional year.

(e) The employing school district shall include the period during which a person works under a military spouse interim authorization toward the three full years of continuous employment necessary to cease being a probationary teacher pursuant to section 22-63-103 (7).

(f) A school district that employs a person who holds a military spouse interim authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the military spouse interim authorization, he or she may apply the completion of the induction program toward meeting the requirements for a professional educator license.

(g) The department of education shall issue a military spouse interim authorization to a person who meets the criteria of this subsection (7.5) no later than ninety days after the receipt of the initial application.

(h) For the purposes of this section, “military spouse” means a spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to Colorado, is domiciled in Colorado, or has moved to Colorado on a permanent change-of-station basis.

**(7.7) Exchange educator interim authorization.** (a) The department of education may issue an exchange educator interim authorization that authorizes a school district to assign a person who is a participant in a district-recognized educator exchange program and is certified or licensed, or is eligible for certification or licensure, as a teacher, special services provider, principal, or administrator in another country.

(b) Prior to issuing an authorization under this section, the department of education may contract with a qualified third party to work with an exchange educator to meet the requirements of section 22-60.5-103 concerning a fingerprint-based criminal history record check.

(c) The Colorado bureau of investigation shall return the results of each fingerprint-based criminal history record check submitted pursuant to this section to the department of education no later than sixty days following receipt of the request.

(d) An exchange educator interim authorization is valid for one year, and the department of education may renew the authorization for one additional year.

(e) The department of education shall issue an exchange educator interim authorization to a person who meets the criteria of this subsection (7.7) no later than ninety days after the receipt of the initial application.

(8) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1448, § 3, effective May 21, 2009.)

**(9) Career and technical education authorization.** (a) The department of education may issue a provisional career and technical education authorization to a person who holds a provisional career and technical education credential issued by an institution of higher education within the state system of community and technical colleges established pursuant to section 23-60-201, C.R.S. A provisional career and technical education authorization is valid for three years and may not be renewed.

(b) The department of education may issue a professional career and technical education authorization to a person who holds a standard career and technical education credential issued by an institution of higher education within the state system of community and technical colleges. A professional career and technical education authorization is valid for five years. The department of education may renew a professional career and technical education authorization for succeeding five-year periods when the person holding the authorization completes the renewal requirements of the state system of community and

technical colleges and submits a copy of the renewed professional credential to the department.

(10) **School speech-language pathology assistant authorization.** (a) The department of education may issue a school speech-language pathology assistant authorization to a person who meets the criteria specified by rule of the state board of education, which at a minimum shall include:

(I) (A) Completion of at least a bachelor's degree, which degree is from an accepted institution of higher education, in speech communication, speech-language pathology, or communication disorders-speech sciences, or a bachelor's degree in any other field if the unauthorized school speech-language pathology assistant has completed a minimum number of credits of course work in speech, language, and hearing sciences, which minimum number of credits is established by rules promulgated by the state board of education pursuant to paragraph (c) of subsection (10) of this section.

(B) (Deleted by amendment, L. 2010, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11, 2010.)

(II) Successful completion of a school speech-language pathology assistant program that:

(A) Meets or exceeds recommended guidelines established by a national association of speech-language-hearing professionals; and

(B) Includes a requirement that each student complete at least one hundred clock hours of a school-based practicum under the supervision of a nationally certified speech-language pathologist who resides or works within Colorado or within a reasonable commuting distance to Colorado, which supervision may be performed electronically via remote interactive technology; and

(III) (Deleted by amendment, L. 2010, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11, 2010.)

(IV) Demonstrated knowledge and skills in competencies specified by rule of the state board of education.

(b) A school speech-language pathology assistant authorization is valid for five years. The department of education may renew the authorization for succeeding five-year periods upon presentation of documented evidence of completion of content-related renewal requirements established by rule of the state board of education, which requirements shall include, but not be limited to, continuing education requirements.

(c) On or before November 1, 2010, the state board of education shall promulgate rules establishing a minimum number of credits of course work in speech, language, and hearing sciences that a person with a bachelor's degree must complete for the purposes of sub-subparagraph (C) of subparagraph (I) of paragraph (a) of subsection (4) of this section and of sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this subsection (10).

(11) **Educational interpreter authorization.** The department of education may issue an educational interpreter authorization to a person to allow the school district to employ the person to provide teaching and interpreting services for students who are deaf or hard of hearing. To receive an educational interpreter authorization, a person shall comply with the criteria established by rule of the state board of education. An educational interpreter authorization is valid for five years. The department of education may renew the authorization for succeeding five-year periods upon submittal of documented evidence of completion of content-related renewal requirements established by rule of the state board of education.

(12) **Junior reserve officer training corps instructor authorization.** The department of education may issue a junior reserve officer training corps instructor authorization, referred to in this subsection (12) as a "JROTC instructor authorization", to a person who provides documented evidence of junior reserve officer training corps certification based on successful acquisition of service-specific junior reserve officer training corps program director certification or completion of service-specific junior reserve officer training corps preparation program requirements, including but not limited to, completion of a service-specified junior reserve officer training corps certification training program. A JROTC instructor authorization is valid for five years. The department of education may renew a JROTC instructor authorization for succeeding five-year periods when the authorization



holder submits documented evidence of service-specific junior reserve officer training corps recertification following successful completion of a service-specific junior reserve officer training corps recertification course or such other requirements as the applicable branch of military service may stipulate.

(13) **Literacy instruction authorization.** The department of education may issue a literacy instruction authorization to an applicant who provides documented evidence of literacy training and experience. A school district may employ a person who holds a literacy instruction authorization to work as a literacy instructor in a literacy program operated by the school district before, during, or after regular school hours. A literacy instruction authorization is valid for five years from the date of issuance. The department of education may renew the literacy instruction authorization for successive five-year periods upon receipt of documented evidence that the person holding the authorization has completed additional literacy training or practice and any other renewal requirements specified by rule of the state board of education.

(14) **Principal authorization.** (a) The department may issue a principal authorization to a person who does not hold a principal license but who holds an earned baccalaureate or higher degree from an accepted institution of higher education and who will be employed pursuant to the provisions of section 22-60.5-305.5 by a school district under an individualized alternative principal program, if the program is approved by the state board of education as provided in this subsection (14). A school district may employ a person who holds a principal authorization to perform the duties of a principal or a vice-principal in a school, so long as the person who holds the authorization is under the supervision of a professional principal licensee.

(b) To receive a principal authorization, a person, in collaboration with a school district, shall submit to the department of education documentation that includes:

(I) The course work, practicums, and other educational requirements, identified by the person and the collaborating school district that will comprise the person's individualized alternative principal program and which the person will complete while he or she is employed under the principal authorization; and

(II) A letter from the collaborating school district stating the school district's intention to employ the applicant as a principal or a vice principal upon issuance of the principal authorization; and

(III) Any additional documentation required by rule of the state board of education.

(c) At a minimum, a person's individualized alternative principal program shall ensure that:

(I) The person receives information, experience, and training and develops skills comparable to the information, experience, training, and skills possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301 (1) (a);

(II) The person receives coaching and mentoring from one or more licensed principals and administrators and continuing performance-based assessment of the person's skills development; and

(III) The person demonstrates professional competencies in subject matter areas as specified by rule of the state board of education pursuant to section 22-60.5-303.

(d) If the state board of education determines the individualized alternative principal program meets the requirements specified in paragraph (c) of this subsection (14), the state board of education shall approve the individualized alternative principal program, and the department of education shall issue the principal authorization to the applicant. A principal authorization shall be valid for three years and may not be renewed.

(e) (I) A school district that employs a person who holds a principal authorization may provide an induction program for the person, as described in section 22-60.5-304. If the person successfully completes the induction program while employed under the principal authorization, the person may apply completion of the induction program toward meeting the requirements for a professional principal license.

(II) If a person who is employed under a principal authorization successfully completes an induction program and completes the individualized alternative principal program while employed under the principal authorization, the department of education may issue a professional principal license to the person upon application.

(15) **Native American language and culture instruction authorization.** (a) The department may issue a native American language and culture instruction authorization to an individual under the following circumstances:

(I) If the individual qualifies for an adjunct instructor authorization pursuant to subsection (2) of this section in the area of native languages; or

(II) If an individual cannot be identified who meets the criteria of subparagraph (I) of this paragraph (a), the employing school district may allow an individual to apply to the department for approval of a native American language and culture instruction authorization if the individual has demonstrated expertise in a native American language of a federally recognized tribe. The native American language and culture instruction authorization shall allow the individual to teach the native American language in which he or she has demonstrated expertise for the employing school district. An individual authorized pursuant to this subparagraph (II) shall work in partnership with a licensed teacher who currently teaches world languages for the employing school district. The approval process for the native American language and culture instruction authorization shall be established by rule of the state board and shall include, at a minimum:

(A) A method to establish and document the expertise of the applicant in the native American language of a federally recognized tribe;

(B) The identification of the partnering licensed teacher;

(C) A requirement that the applicant meet any objective standards for language proficiency established by the state board;

(D) A prohibition on the applicant from teaching any subject other than the native American language for which he or she has demonstrated expertise; and

(E) A renewal process for the authorization.

(b) A native American language and culture authorization issued pursuant to paragraph (a) of this subsection (15) is valid for five years from the date of issuance. The department may renew the authorization for succeeding five-year periods upon the receipt of documented evidence that the person holding the authorization has completed any renewal requirements specified by rule by the state board of education.

(c) All laws and rules, including but not limited to section 22-9-106 and any rules promulgated thereunder related to educator evaluation and effectiveness, shall apply to the individual holding an authorization pursuant to this subsection (15).

**Source:** **L. 91:** Entire article added, p. 477, § 1, effective June 6. **L. 95:** (1)(a) amended and (1)(f) added, p. 270, § 1, effective July 1. **L. 97:** (1)(d) amended, p. 1656, § 4, effective June 5. **L. 99:** IP(1) and (1)(c) amended, p. 1195, § 10, effective June 1. **L. 2000:** (1)(d) amended, p. 1858, § 63, effective August 2. **L. 2002:** (1)(c) amended, p. 1623, § 3, effective June 7. **L. 2003:** (1)(g) added, p. 2520, § 9, effective June 5. **L. 2004:** Entire section R&RE, p. 1271, § 2, effective May 28. **L. 2005:** IP(4)(a), (4)(c)(II), IP(5)(a), (5)(a)(I), (5)(d), (5)(e)(II), (7), and (14)(c)(I) amended, pp. 176, 174, §§ 10, 5, effective April 7. **L. 2007:** (10)(a)(I) amended, p. 745, § 27, effective May 9. **L. 2008:** (7.5) added, p. 97, § 1, effective March 19; (7.7) added, p. 1364, § 2, effective May 27. **L. 2009:** IP(4)(a), (4)(a)(III), (8), and (14)(a) amended, (SB 09-160), ch. 292, p. 1448, § 3, effective May 21. **L. 2010:** (4)(a) and (10) amended, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11; (14)(a), (14)(b)(III), (14)(c)(III), and (14)(d) amended, (HB 10-1422), ch. 419, p. 2079, § 48, effective August 11. **L. 2012:** (15) added, (SB 12-057), ch. 120, p. 408, § 1, effective August 8.

**22-60.5-112. Fees - fund - repeal.** (1) (a) The fee for the examination and review of an application for any license, endorsement, or authorization, or any renewal or reinstatement thereof, shall be established by the state board of education and shall be nonrefundable. Upon determination of eligibility, such license, endorsement, or authorization shall be issued without an additional fee. The state board of education shall adjust if necessary all such fees annually so that they generate an amount of revenue that approximates the direct and indirect costs of the state board of education and of the department for the administration of this article; however, the state board of education shall establish and adjust such fees for licenses issued pursuant to section 22-60.5-201 (1) (a) so that the fees generate an



amount of revenue that approximates the direct and indirect costs of the state board of education and the department for the administration of sections 22-60.5-201 (1) (a) and 22-60.5-205. All fees collected under this section shall be transmitted to the state treasurer and credited to the educator licensure cash fund, which fund is hereby created and referred to in this subsection (1) as the "cash fund". The general assembly shall make annual appropriations from the cash fund for expenditures of the state board of education and of the department incurred in the administration of this article. At the end of any fiscal year, all unexpended and unencumbered moneys in the cash fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (I) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, for the 2011-12, 2012-13, and 2013-14 fiscal years, the moneys in the cash fund are continuously appropriated to the department to offset the direct and indirect costs incurred by the state board of education and the department in administering this article. In each of said fiscal years, the general appropriations bill shall, for informational purposes, reflect the estimated amount of expenditures, including any funding for personnel, from the cash fund.

(II) During each of the 2012, 2013, and 2014 regular legislative sessions, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, and the joint budget committee of the general assembly concerning expenditures from the cash fund and the department's progress in meeting the goal of reducing to six weeks or less the processing time for issuing or renewing an educator license.

(III) For state fiscal years 2011-12, 2012-13, and 2013-14, any persons hired to assist the department in reducing the processing time for issuing or renewing an educator license shall be independent contractors with the department, and the contracts for services shall not extend beyond June 30, 2014.

(IV) This paragraph (b) is repealed, effective July 1, 2014.

(2) Notwithstanding any provision of this section to the contrary, on March 5, 2003, the state treasurer shall deduct one hundred forty-three thousand five hundred thirty-five dollars from the educator licensure cash fund and transfer such sum to the general fund.

**Source: L. 91:** Entire article added, p. 479, § 1, effective June 6. **L. 97:** Entire section amended, p. 1657, § 6, effective June 5. **L. 2000:** Entire section amended, p. 1858, § 64, effective August 2. **L. 2003:** Entire section amended, p. 456, § 11, effective March 5. **L. 2011:** (1) amended, (HB 11-1201), ch. 139, p. 483, § 2, effective May 4.

#### **22-60.5-112.5. National credential - fee assistance - one-time payments.**

(1) (a) For the 2002-03 budget year, the 2004-05 budget year, and each budget year thereafter, subject to available appropriations, the department of education shall assist persons who are seeking national credentials by paying a portion of the fees charged for such national credential. The general assembly shall annually appropriate, if available, moneys from the state education fund, created in section 17 (4) of article IX of the state constitution, to the department of education to be used for the purposes of this section. Fee assistance pursuant to this section shall be available to any person who:

(I) Is seeking a national credential from an approved professional organization as a requirement for or in the course of obtaining master teacher certification pursuant to this article;

(II) Repealed.

(III) Is employed as a teacher in a public school or an approved facility school, as defined in section 22-2-402 (1), in this state at the time of applying for fee assistance pursuant to this section; and

(IV) Applies for national credential fee assistance as provided in this section.

(b) Repealed.

(2) (a) To apply for national credential fee assistance pursuant to this section, a person shall present to the department of education the following items:

(I) Proof that the person has begun the process to obtain the national credential and identification of the national credential program in which the person will participate to obtain the national credential;

(II) Proof that the person has received or will receive national credential fee assistance through a federal assistance program and the amount of such assistance; and

(III) Proof that the person is employed as a teacher at a public school or an approved facility school, as defined in section 22-2-402 (1), in this state at the time of applying for national credential fee assistance.

(b) Following receipt of the items specified in paragraph (a) of this subsection (2) and verification that the person meets the criteria specified in subsection (1) of this section, the department of education shall forward the fee assistance to the identified national credential program on behalf of the person in the amount specified in subsection (1) of this section. The fee assistance shall be paid out of moneys appropriated to the department of education pursuant to paragraph (a) of subsection (1) of this section.

(c) If a person who receives fee assistance pursuant to this section does not complete the national credential program for which he or she received such assistance, the national credential program shall refund to the department of education the amount of fee assistance paid on behalf of said person.

(3) (a) The state board of education shall promulgate rules as necessary for the implementation of this section, including but not limited to a rule identifying those nationally recognized professional credentialing organizations that are approved for purposes of this section.

(b) (Deleted by amendment, L. 2006, p. 677, § 18, effective April 28, 2006.)

(4) (a) The general assembly recognizes that, to obtain a national credential from an approved professional organization, a teacher must demonstrate excellence in teaching skills and achieve a very high level of performance. The general assembly further recognizes that incentives to encourage teachers to obtain national credentialing will benefit the students of Colorado by encouraging teachers to achieve higher levels of performance. Therefore, the general assembly hereby finds that, for purposes of section 17 of article IX of the state constitution, providing national credential fee assistance to teachers who obtain a national credential from an approved professional organization constitutes a performance incentive for teachers and such teachers may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(b) Repealed.

(5) As used in this section, unless the context otherwise requires:

(a) "Approved professional organization" means a nationally recognized professional credentialing organization that is approved by rule of the state board of education.

(b) "National credential" means a certification or other form of registration or credential issued by a nationally recognized professional credentialing organization. "National credential" shall include, but need not be limited to, certification by the national board for professional teaching standards.

**Source:** L. 2002: Entire section added, p. 1791, § 55, effective June 7. L. 2003: IP(1)(a) amended, p. 2136, § 33, effective May 22. L. 2006: IP(1)(a), (2)(b), (3)(b), and (4)(b) amended, p. 677, § 18, effective April 28. L. 2008: (1)(a)(II) and (1)(b) repealed, p. 1217, § 30, effective May 22; (1)(a)(III) and (2)(a)(III) amended, p. 1405, § 53, effective May 27.

**Editor's note:** Subsection (4)(b)(II) as amended by House Bill 06-1375 provided that any unexpended and unencumbered moneys remaining in the national credential fund prior to July 1, 2006, be transferred to the state education fund created in section 17(4) of article IX of the state constitution. Subsection (4)(b)(III) provided for the repeal of subsection (4)(b), effective July 1, 2006. (For the text of subsection (4)(b) effective from April 28, 2006, until its repeal, see L. 2006, p. 677.)

**Cross references:** For the legislative declaration contained in the 2008 act repealing subsections (1)(a)(II) and (1)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.



**22-60.5-113. Issuance of professional licenses to certificate holders. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 479, § 1, effective June 6. **L. 2000:** Entire section repealed, p. 1859, § 65, effective August 2.

**22-60.5-114. State board of education - waivers.** (1) Notwithstanding any law to the contrary and upon application of any institution of higher education, school district, or board of cooperative services, the state board of education is authorized to waive any requirement imposed by this article in regard to alternative teacher programs or approved induction programs. Such waiver shall be granted only upon a majority vote of the members of the state board of education and upon a sufficient showing that such waiver is necessary to allow innovative programs intended to improve the quality of such educators. The state board of education shall promulgate rules and regulations regarding such procedures and criteria necessary for the implementation of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, the state board of education may grant a waiver of the induction program requirement upon a two-thirds majority vote of the board members and upon a sufficient showing that implementation of an induction program would cause extreme hardship to the school district. An application for waiver of the induction program requirement shall include a plan for the support, assistance, and training of initially licensed educators.

(3) Upon application by a school district or board of cooperative services, the state board may grant a waiver of the requirement that a person applying for an initial license demonstrate professional competencies. Such a waiver may be granted only by a two-thirds majority vote of the board members following a demonstration that:

(a) The license applicant is employed by the school district or board of cooperative services under an authorization issued pursuant to section 22-60.5-111;

(b) Enforcement of the requirement would cause extreme hardship to the school district or board of cooperative services or to the license applicant; and

(c) The skill level of the license applicant is comparable to the skill level of an applicant who has successfully demonstrated professional competencies. The school district or board of cooperative services shall provide documentary evidence of the skill level of the license applicant.

**Source:** **L. 91:** Entire article added, p. 480, § 1, effective June 6. **L. 95:** Entire section amended, p. 269, § 2, effective July 1. **L. 97:** (1) amended, p. 1658, § 8, effective June 5. **L. 99:** (1) amended, p. 1192, § 8, effective June 1. **L. 2000:** (3) added, p. 1114, § 3, effective May 26. **L. 2005:** (2) and IP(3) amended, p. 177, § 11, effective April 7.

**22-60.5-115. Rules and regulations.** (1) The state board of education is authorized to adopt and prescribe rules not inconsistent with the provisions of this article for its proper administration. It is the intent of the general assembly that, in prescribing rules for the administration of this article, the state board of education shall adopt the minimum amount of rules necessary to ensure the least cumbersome process possible for issuing and renewing educator licenses.

(2) The state board of education shall promulgate rules and regulations as necessary to implement sections 22-60.5-201 (1) (a) and 22-60.5-205. Such rules and regulations shall include, but need not be limited to, the following:

(a) Application procedures to obtain approval by the state board of education of any proposed alternative teacher program. Such application for approval shall include, but shall not be limited to, statements by the designated agency making such application as to the expectations of what such program would accomplish, the goals and objectives of such alternative teacher program, and what benefits alternative teachers would expect to receive by participating in such alternative teacher program.

(b) Criteria for the approval by the state board of education of any proposed alternative teacher program;

(c) Criteria relating to the designation of mentor teachers by school districts and accredited independent schools providing alternative teacher programs. Such guidelines may include, but shall not be limited to, consideration of the following factors in regard to potential mentor teachers:

(I) Educational attainment;

(II) Level of experience;

(III) The general consensus of professional opinion in such school district or accredited independent school.

(d) Procedures and criteria for the evaluation of approved alternative teacher programs by the department of education;

(e) Procedures and criteria for performance evaluations of alternative teachers which shall be in accordance with section 22-9-106. However, the state board may provide for such performance evaluations by mentor teachers.

**Source:** **L. 91:** Entire article added, p. 480, § 1, effective June 6. **L. 97:** (1) amended, p. 1654, § 2, effective June 5.

**22-60.5-116. Evaluation of approved programs of preparation for teachers, principals, and administrators. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 481, § 1, effective June 6. **L. 98:** Entire section amended, p. 991, § 16, effective July 1. **L. 99:** (2) and (4) amended, p. 1189, § 3, effective June 1. **L. 2001:** (2) and (4) amended, p. 1176, § 7, effective August 8. **L. 2004:** Entire section repealed, p. 1283, § 9, effective May 28.

**22-60.5-116.5. Education committees - evaluation of educator preparation programs - biennial joint meeting.** (1) (a) The committees on education of the house of representatives and the senate, or any successor committees, shall biennially hold a joint meeting to assess the reports received concerning the effectiveness of the approved educator preparation programs offered by accepted institutions of higher education in the state and the reports of the survey of superintendents conducted by the department of education and submitted by the state board of education pursuant to section 22-2-109 (7).

(b) At the meeting, the committees shall consider the reports on the review of approved educator preparation programs received from the Colorado commission on higher education pursuant to section 23-1-121 (6), C.R.S. The committees shall take testimony from representatives of the institutions of higher education that provide the educator preparation programs, the state board of education, the Colorado commission on higher education, and from any other interested persons. Based on the review of said reports and any testimony received, the committees shall assess whether the approved educator preparation programs are adequately preparing candidates to meet the performance-based educator licensure standards adopted by rule of the state board of education pursuant to section 22-2-109 (3).

(c) At the meeting, the committees shall consider the reports of the survey of superintendents conducted by the department of education and submitted by the state board of education pursuant to section 22-2-109 (7). The committees shall take testimony from representatives of the institutions of higher education that provide the principal preparation programs, the state board of education, the Colorado commission on higher education, and from any other interested persons. Based on the review of said reports and any testimony received, the committees shall assess whether the approved principal preparation programs and alternative forms of principal preparation are adequately preparing principal candidates to meet the performance-based principal licensure standards adopted by rule of the state board of education pursuant to section 22-2-109 (6).

(2) If the committees, based on the reports received from the Colorado commission on higher education and the state board of education, determine that an approved educator preparation program is not adequately preparing licensure candidates, the committees shall instruct the Colorado commission on higher education to reduce the funding received by the



institution of higher education that provides the approved educator preparation program during the next fiscal year. The commission shall notify the committees of the amount of said reduction prior to introduction of the annual general appropriation bill.

**Source:** **L. 99:** Entire section added, p. 1190, § 4, effective June 1. **L. 2004:** Entire section amended, p. 1283, § 10, effective May 28. **L. 2006:** Entire section amended, p. 1239, § 2, effective May 26. **L. 2011:** (1)(b) and (2) amended, (SB 11-052), ch. 232, p. 999, § 6, effective May 27; (1)(a) and (1)(b) amended, (SB 11-245), ch. 201, p. 849, § 9, effective August 10.

**Editor's note:** Amendments to subsection (1)(b) by Senate Bill 11-052 and Senate Bill 11-245 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsections (1)(a) and (1)(b), see section 1 of chapter 201, Session Laws of Colorado 2011.

### **22-60.5-117. Prior certificates validated. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 482, § 1, effective June 6. **L. 2000:** Entire section repealed, p. 1859, § 66, effective August 2.

**22-60.5-118. Educator licenses - holding simultaneously.** Nothing in this article shall prohibit a person from simultaneously holding and maintaining different types of educator licenses.

**Source:** **L. 97:** Entire section added, p. 1659, § 9, effective June 5.

**22-60.5-119. Applications for licenses - authority to suspend licenses - rules.**  
(1) Every application by an individual for a license issued by the department of education or any authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of education or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, C.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of education, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of education or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, C.R.S.

(3) (a) The department of education shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of education and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, C.R.S.

(b) The appropriate rule-making body of the department of education is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of education or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not

necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

**Source: L. 97:** Entire section added, p. 1277, § 19, effective July 1.

**Cross references:** For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

**22-60.5-120. Provisional license - initial license - change of term.** As of April 7, 2005, "provisional" educator licenses shall be known as "initial" educator licenses. A person who holds a provisional educator license as of April 7, 2005, shall be deemed to hold an initial educator license on and after said date, so long as the license is valid.

**Source: L. 2005:** Entire section added, p. 190, § 34, effective April 7.

## PART 2

### TEACHERS AND SPECIAL SERVICES PROVIDERS

**22-60.5-201. Types of teacher licenses issued - term.** (1) The department is designated as the sole agency authorized to issue the following teacher licenses to persons of good moral character:

(a) **Alternative teacher license.** (I) The department may, at its discretion, issue an alternative teacher license to any applicant who:

(A) Holds an earned baccalaureate degree from a fully accredited institution of higher education;

(B) (Deleted by amendment, L. 2004, p. 1279, 3, effective May 28, 2004.)

(C) Has been recommended by an accepted institution of higher education as holding a baccalaureate degree and has demonstrated to the state board of education, in a manner prescribed by rule of the board pursuant to section 22-60.5-203 (6), the subject matter knowledge necessary for teaching in the appropriate endorsement areas.

(D) Agrees to participate fully in a one-year or two-year alternative teacher program provided by a designated agency.

(II) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21, 2009.)

(III) Holders of alternative teacher licenses shall not be used to replace regularly licensed teachers in any action resulting from a contract dispute.

(IV) An alternative teacher license shall be valid in any school district or accredited nonpublic school and shall entitle its holder to work exclusively as an alternative teacher pursuant to the terms of an alternative teacher contract. A holder of an alternative teacher license is the teacher of record.

(V) For applicants enrolled in a one-year alternative teacher program, the alternative teacher license issued pursuant to this paragraph (a) shall be valid for a period of one year after the date of issuance and may be renewed for only one additional year, but only upon written evidence that the employing school district, accredited nonpublic school, or board of cooperative services anticipates extending the alternative teacher's contract for one additional year pursuant to the provisions of section 22-60.5-207 (2). For applicants enrolled in a two-year alternative teacher program, the alternative teacher license issued pursuant to this paragraph (a) shall be valid for a period of two years after the date of issuance.

(b) **Initial teacher license.** (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), the department, in its discretion, may issue an initial teacher license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;



(B) Has completed an approved program of preparation for teachers or a one-year or two-year alternative teacher program;

(C) Has demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-203.

(II) The department of education, in its discretion, may issue an initial or a professional teacher license to any applicant who:

(A) Holds a valid initial or professional principal license or a valid initial or professional administrator license;

(B) Has previously held an initial teacher license.

(II.5) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21, 2009.)

(III) (A) An initial teacher license shall be valid in any school districts that provide an approved induction program for teachers or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Except as otherwise provided in sub-subparagraph (B) of this subparagraph (III), any initial license issued pursuant to this paragraph (b) shall be valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years.

(B) If an initial teacher licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial teacher license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an induction program.

(c) **Professional teacher license.** (I) Except as otherwise provided in subparagraphs (II), (II.5), and (II.7) of this paragraph (c), the department of education may, in its discretion, issue a professional teacher license to any applicant who:

(A) Holds a valid initial teacher license;

(B) Has completed an approved induction program and has been recommended for licensure by the school districts that provided such induction program; except that the applicant need not complete an approved induction program as an initial teacher licensee if the applicant previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, or an interim authorization or if the school district in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's plan for support, assistance, and training of initially licensed educators; and

(C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-203 if the applicant received an initial teacher license without demonstrating professional competencies pursuant to sub-subparagraph (C) of subparagraph (I) of paragraph (b) of this subsection (1).

(II) The department of education may, in its discretion, issue a professional teacher license to any applicant who:

(A) Holds a valid initial or professional principal license or a valid initial or professional administrator license;

(B) Has previously held a professional teacher license issued pursuant to this article or an equivalent certificate which was issued pursuant to article 60 of this title prior to July 1, 1994.

(II.5) The department of education may issue a professional teacher license to any applicant who meets or exceeds the requirements specified in paragraph (b) of subsection (3) of this section.

(II.7) The department of education may issue a professional teacher license to an applicant who meets the requirements specified in section 22-60.5-111 (4) (c) (II) or (5) (e) (II).

(III) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (III), any professional teacher license issued pursuant to this paragraph (c) shall be valid for a period of five years after the date of issuance and is renewable at its expiration as provided in section 22-60.5-110.

(B) Any professional teacher license issued pursuant to this paragraph (c) which is held in conjunction with a master certificate pursuant to section 22-60.5-202 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of education instructional programs in the public schools of this state; except that the state board of education may not require any person who applies for a professional teacher license either while holding a valid initial teacher license or upon expiration of an initial teacher license to demonstrate professional competencies if said person demonstrated professional competencies prior to obtaining the initial teacher license.

(3) (a) The department of education may, at its discretion, issue an initial teacher license provided for in paragraph (b) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial teacher license.

(b) (I) The department of education may issue a professional teacher license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a teacher license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional teacher license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as a teacher in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional teacher license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for teachers;

(B) Held an initial teacher license pursuant to paragraph (b) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-203.

(c) In an area deemed by the state board of education to be a shortage area, the state board of education shall establish reasonable criteria, including the recognition of experience as a licensed or certificated teacher, for the issuance of an initial teacher license to any applicant from another state or country.

(d) An applicant for an initial teacher license who has three years or more of teaching experience in another state or country for which the department of education has granted reciprocity pursuant to this subsection (3) shall be licensed without having to demonstrate professional competencies pursuant to section 22-60.5-203 if such person meets all the other qualifications for an initial teacher license or professional teacher license and if such person is qualified to teach in that state or country.

(3.5) The department of education may, at its discretion, issue a professional license provided for in paragraph (c) of subsection (1) of this section to any applicant who is certified by a nationally recognized teacher certification organization that is approved by the state board of education.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial teacher licenses to persons licensed to teach in another state.

(5) (Deleted by amendment, L. 2006, p. 637, § 50, effective August 7, 2006.)

**Source:** L. 91: Entire article added, p. 483, § 1, effective June 6. L. 94: (1)(b)(I)(C), (1)(b)(III), and (1)(c)(I)(B) amended and (1)(c)(I)(C) added, p. 1801, § 1, effective May 31. L. 96: (3) amended, p. 1785, § 2, effective June 3. L. 97: (1)(b)(III), (1)(c)(I)(B), and (2) amended and (3.5) added, pp. 1659, 1662, 1664, §§ 10, 14, 22, effective June 5. L. 99: (3) amended, p. 890, § 1, effective May 24; IP(1)(b)(I) amended and (1)(b)(II.5) added, p. 1196, § 11, effective June 1. L. 2000: IP(1)(c)(I) and (3) amended and (1)(c)(II.5) added,



p. 1103, § 1, effective August 2. **L. 2002:** IP(1)(c)(I) amended, p. 1020, § 33, effective June 1. **L. 2004:** (1)(a)(I)(B), (1)(a)(I)(C), (1)(a)(II)(A), (1)(b)(I)(A), IP(1)(c)(I), and (1)(c)(I)(B) amended and (1)(c)(II.7) added, p. 1279, § 3, effective May 28. **L. 2005:** (1)(b), (1)(c)(I), (1)(c)(II), (2), (3), and (4) amended, p. 177, § 12, effective April 7. **L. 2006:** (1)(b)(I)(C), (1)(b)(III)(A), and (5) amended, p. 637, § 50, effective August 7. **L. 2007:** (1)(a)(IV) amended, p. 55, § 2, effective March 14. **L. 2009:** IP(1), (1)(a), IP(1)(b)(I), (1)(b)(I)(B), and (1)(b)(II.5) amended, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21.

**22-60.5-202. Professional teacher licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional teacher license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional teacher licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional teacher license is valid and is renewable at its expiration.

**Source:** **L. 91:** Entire article added, p. 485, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 51, effective August 7.

**22-60.5-203. Assessment of professional competencies - rules.** (1) The state board of education shall, by rule, establish areas of knowledge in which initial teacher licensees shall possess a satisfactory level of proficiency.

(2) The state board by rule shall identify the professional competencies required of the applicants described in subsection (3) of this section specifically in the context of the requirements of standards-based education pursuant to the requirements of part 4 of article 7 of this title. Such professional competencies shall apply to an applicant only within the scope of the subject matter to be taught by the applicant.

(3) The department of education shall develop and administer, pursuant to the rules of the state board of education, a system for the assessment of such professional competencies of applicants for initial teacher licenses and of applicants for professional teacher licenses who do not demonstrate professional competencies prior to obtaining an initial teacher license.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

(5) The state board of education shall, by rule, establish common credit hour standards for all approved educator preparation programs for the purpose of satisfying subsection (6) of this section.

(6) For purposes of establishing minimum competency in a licensure endorsement area, the state board of education shall establish minimum coursework standards that align with the content standards established by the state board of education pursuant to section 22-2-109 (3). Minimum coursework standards may be shown in one of the following ways:

(a) For elementary teachers, including special education generalist teachers, passage of the elementary content test;

(b) For secondary teachers:

(I) A degree in the endorsement area;

(II) Passage of a content test in the endorsement area; or

(III) Twenty-four hours of coursework in the endorsement area.

**Source:** **L. 91:** Entire article added, p. 486, § 1, effective June 6. **L. 93:** (2)(h) and (2)(i) amended and (2)(j) added, p. 1048, § 8, effective June 3. **L. 97:** (1) and (3) amended, p. 1662, § 15, effective June 5; (2)(j) amended, p. 461, § 10, effective August 6. **L. 98:** (1), (2)(a), (2)(b), and (3) amended and (4) added, pp. 993, 990, §§ 17, 10, effective July 1.

**L. 2000:** (2) R&RE, p. 1114, § 1, effective May 26. **L. 2005:** (1) and (3) amended, p. 180, § 13, effective April 7. **L. 2009:** (5) and (6) added, (SB 09-160), ch. 292, p. 1450, § 5, effective May 21. **L. 2010:** (5) amended, (HB 10-1422), ch. 419, p. 2079, § 49, effective August 11. **L. 2011:** (5) amended, (SB 11-245), ch. 201, p. 849, § 10, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (5), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-60.5-204. Approved induction program - initial teacher licensee.** (1) Any approved induction program of a school district or districts for initial teacher licensees may include, but shall not be limited to, supervision by mentor teachers, ongoing professional development and training, including ethics, and performance evaluations. Such school district or districts may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. Performance evaluations shall be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule and regulation for performance evaluations by mentor teachers.

(2) The approved induction program of any individual initial teacher licensee may be extended if deemed necessary by the school district or districts providing such program; however, such program shall not exceed a maximum of three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial teacher licensees and for the review of approved induction programs for initial teacher licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems relevant and appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the cost of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source:** **L. 91:** Entire article added, p. 486, § 1, effective June 6. **L. 2005:** Entire section amended, p. 181, § 14, effective April 7.

**22-60.5-205. One-year and two-year alternative teacher programs - legislative declaration - standards and evaluation - duties of department - duties of the state board of education - fees.** (1) (a) The general assembly hereby finds and declares that:

(I) Many school districts face a shortage of teachers and often struggle to find qualified persons to teach their students;

(II) The increased use of emergency authorizations to hire persons who do not have teacher licenses and, in some cases, have not received any form of teacher preparation or education potentially jeopardizes a school district's goal of providing a quality education for each student; and

(III) Often, persons with experience in areas other than education can help alleviate the teacher shortage faced by many school districts, so long as these persons receive adequate supervision and education in teaching methods and practices.

(b) The general assembly therefore declares that it is in the best interest of the state of Colorado to allow designated agencies to create one-year and two-year alternative teacher programs pursuant to the provisions of this section with the intent that these programs provide a vehicle for designated agencies to customize the preparation of teacher candidates, reduce the number of persons employed under emergency authorizations, and help designated agencies recruit and employ nontraditional teacher candidates, while maintaining teacher preparation program standards, delivering high-quality educational services, and protecting the interests of students.



(2) Designated agencies are hereby authorized to implement one-year alternative teacher programs or two-year alternative teacher programs, which two-year programs were formerly known as teacher in residence programs, as follows:

(a) A one-year alternative teacher program shall be designed to be completed within one year. However, the employing school district or nonpublic school may extend an alternative teacher's participation for one additional year based on unforeseen circumstances and the expectation that the alternative teacher will complete the program in the second year.

(b) An alternative teacher program shall include, but need not be limited to, supervision by mentor teachers, performance evaluations, and a program minimum of two hundred twenty-five clock hours of planned instruction and activities, which shall include training in dropout prevention. The total number of hours of planned instruction and activities may be modified by the alternative teacher support team, as described in section 22-60.5-206, for an alternative teacher based upon his or her qualifications, knowledge, and experience.

(c) A designated agency that chooses to implement an alternative teacher program may collaborate and contract with an institution of higher education that provides an approved educator preparation program. A contract entered into pursuant to this paragraph (c) shall include, but need not be limited to, the provision of educator preparation courses and subject matter courses as necessary to comply with the educator preparation program requirements established by the Colorado commission on higher education pursuant to section 23-1-121, C.R.S.

(d) (I) A person employed as an alternative teacher shall hold an alternative teacher license issued pursuant to section 22-60.5-201 (1) (a). Except as otherwise provided in subparagraph (II) of this paragraph (d) and section 22-60.5-207 (2), a person may be employed as an alternative teacher for a total of two years. A person employed as an alternative teacher shall meet the content-area education requirements specified by rule of the state board of education.

(II) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education teaching endorsement pursuant to section 22-60.5-106 (2).

(e) Upon completing an alternative teacher program, the alternative teacher shall obtain an initial teacher license pursuant to section 22-60.5-201 (1) (b) (I) in order to be employed by a school district as a teacher.

(f) An alternative teacher shall complete his or her induction program prior to receiving a professional license.

(g) (I) Within thirty days after employing a person as an alternative teacher, a school district or nonpublic school shall notify the department of the alternative teacher's name, address, and any other information that may be necessary to assist the department in providing pertinent information under the requirements of subparagraph (II) of this paragraph (g).

(II) The department shall provide information to each alternative teacher concerning the requirements for teacher licensure as specified in section 22-60.5-201 and by rule of the state board of education.

(h) An alternative teacher program shall meet the performance-based teacher licensure standards adopted by the state board of education pursuant to section 22-2-109 (3).

(3) (a) A designated agency that chooses to implement an alternative teacher program pursuant to the provisions of subsection (2) of this section shall notify the department and submit a description of the alternative teacher program to the department. The department shall review the alternative teacher program to ensure that it meets the requirements specified in subsection (2) of this section and shall recommend to the state board of education approval or disapproval of the alternative teacher program. Within ninety days after the designated agency submits the alternative teacher program description to the department, the state board of education shall notify the implementing designated agency that it has either approved or disapproved the alternative teacher program.

(b) (I) The state board of education shall, at its discretion, approve an application by a designated agency seeking to provide an alternative teacher program. The application shall meet the requirements of this section and any rules established by the state board of

education. The state board of education is authorized to resolve any differences that may arise between school districts, accredited nonpublic schools, and accepted institutions of higher education with regard to alternative teacher programs.

(II) Notwithstanding any law to the contrary, the state board of education is authorized, for good cause, to waive any requirements imposed by law regarding a designated agency's alternative teacher program if, in its discretion, it deems the waiver necessary to accomplish the purposes of this section.

(4) The department shall:

(a) Provide technical assistance upon request to all designated agencies as necessary to implement the provisions of this section; and

(b) Review and submit to the state board of education for approval all applications made by designated agencies to provide alternative teacher programs pursuant to subsection (3) of this section.

(5) Not more than every five years, the department shall perform an on-site evaluation of each alternative teacher program to ensure that it meets the requirements of this section. An alternative teacher program that does not meet the requirements of this section shall be subject to disapproval by the state board of education. An alternative teacher program that is disapproved by the state board of education shall be terminated by the implementing designated agency on completion of the academic year in which the alternative teacher program is disapproved; except that the designated agency may continue to operate the alternative teacher program if, prior to the end of said academic year, the designated agency redesigns the alternative teacher program to meet the requirements of this section and the state board of education approves the redesigned alternative teacher program.

(6) A designated agency that is not an institution of higher education may charge an alternative teacher in an alternative teacher program a fee in such amount as to generate sufficient revenue to offset the direct and indirect costs to the designated agency for the development and administration of the alternative teacher program. Any fees collected pursuant to the provisions of this subsection (6) shall be used for the purposes set forth in this section and shall not be expended for any other purpose.

(7) A designated agency that is an institution of higher education may establish program fees in accordance with its existing policies. A public institution of higher education shall establish program fees in accordance with existing state laws and rules established by the Colorado commission on higher education.

**Source:** **L. 91:** Entire article added, p. 487, § 1, effective June 6. **L. 2007:** (1) amended, p. 56, § 3, effective March 14. **L. 2009:** Entire section R&RE, (SB 09-160), ch. 292, p. 1451, § 6, effective May 21. **L. 2011:** (2)(c) amended, (SB 11-245), ch. 201, p. 849, § 11, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(c), see section 1 of chapter 201, Session Laws of Colorado 2011.

## **22-60.5-206. Alternative teacher support teams - duties - advisory councils.**

(1) An alternative teacher support team shall be established by the designated agency for each holder of an alternative teacher license employed as an alternative teacher through an alternative teacher program. At a minimum, each alternative teacher support team shall be composed of an alternative teacher's mentor teacher and the principal and a representative of an accepted institution of higher education, if applicable.

(2) The alternative teacher support team shall:

(a) Establish the content of the required program of planned instruction and activities;

(b) Determine at what point in the program an alternative teacher may have responsibility for classroom instruction;

(c) Ensure that a significant portion of the teaching assignment of an alternative teacher is in the subject matter area or areas of the alternative teacher's endorsement;

(d) Evaluate the progress and effectiveness of an alternative teacher; and

(e) Make a recommendation to the school district or accredited nonpublic school that employs an alternative teacher concerning his or her eligibility to receive an initial teacher



license or whether he or she is unable to complete the one-year alternative teacher program due to unforeseen circumstances, but should apply for an extension of the alternative teacher license with the expectation that he or she will complete his or her program within one additional year.

(3) As a member of an alternative teacher support team, the mentor teacher has primary responsibility for representing the faculty and parents in evaluating and making recommendations regarding the issuance of an initial teacher license to an alternative teacher or renewal of an alternative teacher license for one additional year. In recognition of the significant duties and responsibilities of mentor teachers, the designating school district or accredited nonpublic school shall make appropriate provisions as are necessary to ensure the proper discharge of such duties and responsibilities by the mentor teacher.

(4) In addition, for purposes of carrying out any alternative teacher program approved by the state board of education, any designated agency shall establish an advisory council that shall include, at a minimum, representatives of each school district or accredited nonpublic school, including at least one mentor teacher, and a representative of any accepted institution of higher education in the designated agency.

**Source:** L. 91: Entire article added, p. 488, § 1, effective June 6. L. 2005: (2)(e) and (3) amended, p. 181, § 15, effective April 7. L. 2007: (2)(e) and (3) amended, p. 56, § 4, effective March 14. L. 2009: Entire section amended, (SB 09-160), ch. 292, p. 1454, § 7, effective May 21.

**22-60.5-207. Alternative teacher contracts.** (1) Alternative teacher contracts may include, but are not limited to, terms and conditions which:

(a) Differ from any terms and conditions of contracts of such school district or accredited independent school for first-year employees who are licensed other than as alternative teachers;

(b) Define those conditions unique to the responsibilities and duties of an alternative teacher and the alternative teacher program of such school district or accredited independent school;

(c) Establish the right of the employing school district or accredited independent school to terminate such alternative teacher contract at any time during the first three months of employment; however, such action shall be taken only after consideration of a recommendation of the alternative teacher support team for such alternative teacher and shall not be subject to appeal by such alternative teacher.

(2) The term of an alternative teacher contract shall be for one or two years; except that an employing school district or nonpublic school may extend a one-year alternative teacher contract for only one additional year based on written evidence of unforeseen circumstances that prevent the alternative teacher from completing the one-year alternative teacher program in one year and the expectation of the alternative teacher's support team that he or she can complete the one-year alternative teacher program in one additional year.

**Source:** L. 91: Entire article added, p. 489, § 1, effective June 6. L. 2007: (2) added, p. 57, § 5, effective March 14. L. 2009: (2) amended, (SB 09-160), ch. 292, p. 1455, § 8, effective May 21.

**22-60.5-208. Minority alternative teachers - fellowship program - minority alternative teacher fund - created. (Repealed)**

**Source:** L. 91: Entire article added, p. 490, § 1, effective June 6. L. 97: Entire section repealed, p. 1665, § 28, effective June 5.

**22-60.5-209. Department of education - report to general assembly. (Repealed)**

**Source:** L. 91: Entire article added, p. 490, § 1, effective June 6. L. 96: Entire section repealed, p. 1235, § 72, effective August 7.

**22-60.5-210. Types of special services licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following types of special services licenses to persons of good moral character:

(a) **Initial special services license.** (I) The department of education, in its discretion, may issue an initial special services license to any applicant who:

- (A) Has been awarded an appropriate degree from an institution of higher education;
- (B) Has met the standards of the state board of education concerning academic and professional preparation and experience and performance as appropriate for the subject matter area or areas for which such initial special services license is to be endorsed;
- (C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-212.

(II) An initial special services license shall be valid in any school districts that provide an approved induction program for special services providers or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial special services license issued pursuant to this paragraph (a) shall be valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years; except that, if an initial special services licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial special services license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(III) For purposes of this paragraph (a), in establishing standards pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a) concerning academic and professional preparation and experience and performance with regard to school psychologists, school social workers, occupational therapists, physical therapists, and school nurses, the state board of education shall not require an applicant for an initial special services license who holds a valid Colorado license or registration or valid national certificate to take and achieve a passing score on an assessment of basic skills.

(b) **Professional special services license.** (I) Except as otherwise provided in subparagraph (I.5) of this paragraph (b), the department of education may, in its discretion, issue a professional special services license to any applicant who:

- (A) Holds a valid initial special services license; and
- (B) Has completed an approved induction program for special services providers and has been recommended for licensure by the school districts that provided such induction program; except that the applicant need not complete an approved induction program as an initial special services licensee if the applicant previously completed an induction program while employed under an emergency authorization or a temporary educator eligibility authorization or if the school district in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's plan for support, assistance, and training of initially licensed educators.

(I.5) The department of education may issue a professional special services license to an applicant who meets the requirements specified in section 22-60.5-111 (4) (c) (II) or (5) (e) (II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional special services license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional special services license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-211 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of



education instructional programs; except that the state board of education may not require any person applying for a professional special services license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial special services license provided for in paragraph (a) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial special services license.

(b) (I) The department of education may issue a professional special services license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a special services license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional special services license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as a special services provider in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional special services license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for special services providers;

(B) Held an initial special services license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-212.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial special services licenses to persons licensed as special services providers in another state.

(5) Repealed.

**Source:** **L. 91:** Entire article added, p. 492, § 1, effective June 6. **L. 96:** (1)(a)(III) added, p. 127, § 1, effective March 25. **L. 97:** (1)(a)(II), (1)(b)(I)(B), and (2) amended, pp. 1660, 1663, §§ 11, 16, effective June 5. **L. 98:** (1)(a)(III) amended, p. 159, § 1, effective April 6. **L. 2000:** (3) amended, p. 1104, § 2, effective August 2. **L. 2002:** IP(1)(b)(I) amended, p. 1021, § 34, effective June 1. **L. 2004:** (1)(b)(I) amended and (1)(b)(I.5) added, p. 1280, § 4, effective May 28. **L. 2005:** (1)(a), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 181, § 16, effective April 7. **L. 2006:** (5) repealed, p. 638, § 52, effective August 7.

**22-60.5-211. Professional special services licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional special services license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional special services licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional special services license is valid and is renewable at its expiration.

**Source:** **L. 91:** Entire article added, p. 493, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 53, effective August 7.

**22-60.5-212. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial special services licensees shall possess a satisfactory level of proficiency.

(2) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial special services licenses.

(3) The state board of education shall annually review the assessment program developed pursuant to subsection (2) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source:** L. 91: Entire article added, p. 494, § 1, effective June 6. L. 97: Entire section amended, p. 1663, § 17, effective June 5. L. 98: (3) added, p. 990, § 11, effective July 1. L. 2005: (1) and (2) amended, p. 183, § 17, effective April 7.

**22-60.5-213. Approved induction programs - initial special services licensees.**

(1) Any approved induction program of a school district or districts for initial special services licensees may include, but shall not be limited to, supervision by mentor special services providers, ongoing professional development and training, including ethics, and performance evaluations. Such school district or districts may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. Performance evaluations shall be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule and regulation for performance evaluations by mentor special services providers.

(2) The approved induction program of any initial special services licensee may be extended if deemed necessary by the school district or districts providing such program; however, such program shall not be extended so that such program exceeds three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial special services licensees and for the review of approved induction programs for initial special services licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source:** L. 91: Entire article added, p. 494, § 1, effective June 6. L. 2005: Entire section amended, p. 183, § 18, effective April 7.

**22-60.5-214. Teacher and special services professional standards board - creation - membership - repeal. (Repealed)**

**Source:** L. 91: Entire article added, p. 495, § 1, effective June 6.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 495.)

**22-60.5-215. Powers and duties of the teacher and special services professional standards board - repeal. (Repealed)**

**Source:** L. 91: Entire article added, p. 496, § 1, effective June 6. L. 97: (3) repealed, p. 1665, § 25, effective June 5. L. 99: (1)(f) and (1)(g) repealed, p. 1191, § 6, effective June 1.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 496.)



**22-60.5-216. Teacher and special services professional standards board - annual joint meeting - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 498, § 1, effective June 6.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 498.)

**22-60.5-217. Teacher and special services professional standards board - examination for basic competencies. (Repealed)**

**Source: L. 91:** Entire article added, p. 498, § 1, effective June 6. **L. 2005:** Entire section repealed, p. 184, § 19, effective April 7.

**PART 3**

**PRINCIPALS AND ADMINISTRATORS**

**22-60.5-301. Types of principal licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following principal licenses to persons of good moral character:

(a) **Initial principal license.** (I) The department of education, in its discretion, may issue an initial principal license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;

(B) Has completed an approved program of preparation for principals;

(C) Has completed three or more years of successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state;

(D) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-303.

(II) An initial principal license shall be valid in any school districts that provide an approved induction program for principals or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial principal license issued pursuant to this paragraph (a) shall be valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years; except that, if an initial principal licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial principal license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(b) **Professional principal license.** (I) Except as otherwise provided in subparagraph (I.5) of this paragraph (b), the department of education may, in its discretion, issue a professional principal license to any applicant who:

(A) Holds an earned master's degree from an accepted institution of higher education;

(B) Holds a valid initial principal license; and

(C) Has completed an approved induction program for principals and has been recommended for licensure by the school districts that provided such induction program; except that the applicant need not complete an approved induction program as an initial principal licensee if the applicant previously completed an induction program while employed under an emergency authorization or a principal authorization or if the school district in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's plan for support, assistance, and training of initially licensed educators.

(1.5) The department of education may issue a professional principal license to an applicant who meets the requirements specified in section 22-60.5-111 (4) (c) (II) or (14) (e) (II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional principal license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional principal license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-302 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of education instructional programs in this state; except that the state board of education may not require any person applying for a professional principal license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial principal license provided for in paragraph (a) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial principal license.

(b) (I) The department of education may issue a professional principal license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a principal license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional principal license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as a principal in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional principal license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for principals;

(B) Held an initial principal license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-303.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial principal licenses to persons licensed as principals in other states.

(5) Repealed.

**Source:** **L. 91:** Entire article added, p. 498, § 1, effective June 6. **L. 97:** (1)(a)(I)(C), (1)(a)(II), (1)(b)(I)(C), and (2) amended, pp. 1661, 1663, 1664, §§ 12, 18, 23, effective June 5. **L. 2000:** (3) amended, p. 1105, § 3, effective August 2. **L. 2002:** IP(1)(b)(I) amended, p. 1021, § 35, effective June 1. **L. 2004:** (1)(b)(I) amended and (1)(b)(I.5) added, p.1280, § 5, effective May 28. **L. 2005:** IP(1)(a)(I), (1)(a)(II), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 184, § 20, effective April 7. **L. 2006:** (5) repealed, p. 638, § 54, effective August 7.

**22-60.5-302. Professional principal licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional principal license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional principal licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have



demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional principal license is valid and is renewable at its expiration.

**Source:** **L. 91:** Entire article added, p. 500, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 55, effective August 7.

**22-60.5-303. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial principal licensees shall possess a satisfactory level of proficiency.

(2) The following list of areas of knowledge is a guideline to be used by the state board of education and shall not be construed as inclusive or prescriptive:

- (a) Leadership;
- (b) Communication and human relations, including the ability to respond to the needs of students and parents from culturally diverse backgrounds;
- (c) Instruction, including curriculum, design, and assessment;
- (d) Problem-solving and decision-making;
- (e) Management, including planning, organization, and administration;
- (f) Personnel administration, including staff development and evaluation;
- (g) Child growth and development; and
- (h) Knowledge and application of standards-based education pursuant to part 4 of article 7 of this title.

(3) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial principal licenses.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source:** **L. 91:** Entire article added, p. 500, § 1, effective June 6. **L. 93:** (2)(f) and (2)(g) amended and (2)(h) added, p. 1049, § 9, effective June 3. **L. 97:** (1) and (3) amended, p. 1663, § 19, effective June 5; (2)(h) amended, p. 462, § 11, effective August 6. **L. 98:** (4) added, p. 990, § 12, effective July 1. **L. 2005:** (1) and (3) amended, p. 185, § 21, effective April 7.

**22-60.5-304. Approved induction programs - initial principal licensees.** (1) Any approved induction program of a school district or districts for initial principal licensees may include, but shall not be limited to, supervision by mentor principals, ongoing professional development and training, including ethics, and performance evaluations. Such school district or districts may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. Performance evaluations shall be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule and regulation for performance evaluations by mentor principals.

(2) The approved induction program of any individual initial principal licensee may be extended if deemed necessary by the school district or districts providing such program; however, such program shall not exceed a maximum of three years.

(3) (a) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting

categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

(b) On and after July 1, 2009, in promulgating rules and regulations establishing standards and criteria pursuant to paragraph (a) of this subsection (3), the state board shall consult with the school leadership academy board established pursuant to section 22-13-103.

**Source:** L. 91: Entire article added, p. 501, § 1, effective June 6. L. 2005: Entire section amended, p. 185, § 22, effective April 7. L. 2008: (3) amended, p. 1372, § 4, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 310, Session Laws of Colorado 2008.

**22-60.5-305. Licensed principals - occasional teaching.** Any principal who holds a valid initial or professional principal license pursuant to this part 3 and who, on occasion, functions as a teacher shall not be required to hold a valid initial or professional teacher license pursuant to part 2 of this article. The state board of education shall establish, by rule and regulation, what constitutes occasional teaching for purposes of this section.

**Source:** L. 91: Entire article added, p. 502, § 1, effective June 6. L. 2005: Entire section amended, p. 186, § 23, effective April 7.

**22-60.5-305.5. Alternative principal preparation program.** (1) The general assembly finds that there is a shortage of persons in the state who are licensed as principals and are available for employment by school districts. The general assembly further finds that persons who have achieved success in careers outside of education and who are interested in employment as school principals may provide a new source of leadership talent for school districts as they seek to hire school principals. Therefore, the general assembly concludes that it is in the interest of the state to authorize school districts to design and implement individualized alternative principal programs to enable persons from outside the education community to develop the skills and experiences necessary to successfully lead a public school and to qualify ultimately for licensure as principals.

(2) A school district may employ as a principal or a vice-principal a person who holds a principal authorization issued pursuant to section 22-60.5-111 (14). A person who is employed under a principal authorization may perform the duties of a principal or a vice-principal in a school so long as the person is under the supervision of a professional principal licensee. The school district shall collaborate with the person in designing an individualized alternative principal program, which the person shall complete while employed under the authorization. The school district may work with a governmental, nonprofit, or for-profit entity in designing and implementing the individualized alternative principal program. The individualized alternative principal program shall be subject to approval by the state board of education as provided in section 22-60.5-111 (14) and in accordance with rules adopted by the state board of education.

(3) In designing an individualized alternative principal program, the school district shall, at a minimum, ensure that:

(a) The program will provide the information, experience, and training to enable the person who is employed under the principal authorization to develop the skills and obtain the experience and training that are comparable to those possessed by a person who qualifies for an initial principal license, as provided in section 22-60.5-301 (1) (a);

(b) The person who is employed under the principal authorization is required to successfully demonstrate professional competencies in subject matter areas, as specified by rule of the state board pursuant to section 22-60.5-303;

(c) The person who is employed under the principal authorization is mentored and coached continuously by one or more licensed principals and administrators;



(d) The person who is employed under the principal authorization is assessed at the beginning of the individualized alternative principal program to determine his or her strengths and weaknesses and that the program is designed to fit the person's individual education and training needs; and

(e) The individualized alternative principal program complements the school improvement plan, if one exists, of the school in which the person who holds a principal authorization would be employed.

(4) In designing an individualized alternative principal program, the school district shall assess the needs of the school to which the person employed under the principal authorization would be assigned and ensure that the person receives training that will equip the person to meet the specific needs of the school and the community in which it is located.

(5) A school district may employ a person who holds a principal authorization for three years. After that time, the school district may employ the person as a principal only if he or she receives an initial or professional principal license pursuant to section 22-60.5-301. The school district may choose to provide an induction program, as described in section 22-60.5-304, for the person while he or she is employed under a principal authorization. The induction program, if provided, shall be in addition to the individualized alternative principal program to be completed by the person while he or she is employed under a principal authorization.

**Source: L. 2009:** Entire section added, (SB 09-160), ch. 292, p. 1455, § 9, effective May 21.

**Editor's note:** This section is similar to former § 22-32-110.4 as it existed prior to 2009.

**22-60.5-306. Types of administrator licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following types of administrator licenses to persons of good moral character:

(a) **Initial administrator license.** (I) The department of education, in its discretion, may issue an initial administrator license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;

(B) Has completed an approved program of preparation for administrators;

(C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-308.

(II) An initial administrator license shall be valid in any school districts that provide an approved induction program for administrators or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial administrator license issued pursuant to this paragraph (a) shall be valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years; except that, if an initial administrator licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial administrator license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(b) **Professional administrator license.** (I) Except as otherwise provided in subparagraph (I.5) of this paragraph (b), the department of education may, in its discretion, issue a professional administrator license to any applicant who:

(A) Holds an earned master's degree from an institution of higher education;

(B) Holds a valid initial administrator license; and

(C) Has completed an approved induction program for administrators and has been recommended for licensure by the school districts that provided such induction program; except that the applicant need not complete an approved induction program as an initial administrator licensee if the applicant previously completed an induction program while employed under an emergency authorization or a temporary educator eligibility authorization or if the school district in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district that has obtained a waiver of the induction program

requirement, the applicant shall demonstrate completion of any requirements specified in the school district's plan for support, assistance, and training of initially licensed educators.

(I.5) The department of education may issue a professional administrator license to an applicant who meets the requirements specified in section 22-60.5-111 (4) (c) (II) or (5) (e) (II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional administrator license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional administrator license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-307 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of education instructional programs; except that the state board of education may not require any person applying for a professional administrator license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial administrator license provided for in paragraph (a) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial administrator license.

(b) (I) The department of education may issue a professional administrator license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to an administrator license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional administrator license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as an administrator in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional administrator license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for administrators;

(B) Held an initial administrator license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-308.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial administrator licenses to persons licensed as administrators in another state.

(5) Repealed.

**Source:** L. 91: Entire article added, p. 502, § 1, effective June 6. L. 97: (1)(a)(II), (1)(b)(I)(C), and (2) amended, pp. 1661, 1663, §§ 13, 20, effective June 5. L. 2000: (3) amended, p. 1106, § 4, effective August 2. L. 2002: IP(1)(b)(I) amended, p. 1021, § 36, effective June 1. L. 2004: (1)(b)(I) amended and (1)(b)(I.5) added, p. 1281, § 6, effective May 28. L. 2005: IP(1)(a)(I), (1)(a)(II), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 186, § 24, effective April 7. L. 2006: (5) repealed, p. 639, § 56, effective August 7.

**22-60.5-307. Professional administrator licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional administrator license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional administrator licensees who are involved in ongoing professional development and training and who have advanced competencies or



expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional administrator license is valid and is renewable at its expiration.

**Source:** **L. 91:** Entire article added, p. 503, § 1, effective June 6. **L. 2006:** Entire section amended, p. 639, § 57, effective August 7.

**22-60.5-308. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial administrator licensees shall possess a satisfactory level of proficiency.

(2) The following list of areas of knowledge is a guideline to be used by the state board of education and shall not be construed as inclusive or prescriptive:

- (a) Basic management;
- (b) Leadership;
- (c) Decision-making and problem-solving;
- (d) Communication and human relations, including the ability to respond to the needs of students and parents from culturally diverse backgrounds;
- (e) Personnel administration;
- (f) Resource utilization;
- (g) Child growth and development; and
- (h) Knowledge and application of standards-based education pursuant to part 4 of article 7 of this title.

(3) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial administrator licenses.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source:** **L. 91:** Entire article added, p. 504, § 1, effective June 6. **L. 93:** (2)(f) and (2)(g) amended and (2)(h) added, p. 1049, § 10, effective June 3. **L. 97:** (1) and (3) amended, p. 1664, § 21, effective June 5; (2)(h) amended, p. 462, § 12, effective August 6. **L. 98:** (4) added, p. 990, § 13, effective July 1. **L. 2005:** (1) and (3) amended, p. 187, § 25, effective April 7.

**22-60.5-309. Approved induction programs - initial administrator licensees.**

(1) Any approved induction program of a school district or districts for initial administrator licensees may include, but shall not be limited to, supervision by mentor administrators, ongoing professional development and training, including ethics, and performance evaluations. Such school district or districts may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. Performance evaluations shall be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule and regulation for performance evaluations by mentor administrators.

(2) The approved induction program of any individual initial administrator licensee may be extended if deemed necessary by the school district or districts providing such program; however, such program shall not exceed a maximum of three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial administrator licensees and for the review of approved induction programs for initial administrator licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of

approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source:** L. 91: Entire article added, p. 504, § 1, effective June 6. L. 2005: Entire section amended, p. 188, § 26, effective April 7.

**22-60.5-309.5. Licensed administrators - occasional teaching.** Any administrator who holds a valid initial or professional administrator's license pursuant to this part 3, who has completed three or more years of successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state, and who, on occasion, functions as a teacher shall not be required to hold a valid initial or professional teacher license pursuant to part 2 of this article. The state board of education shall establish by rule what constitutes occasional teaching for purposes of this section.

**Source:** L. 95: Entire section added, p. 269, § 3, effective July 1. L. 97: Entire section amended, p. 1664, § 24, effective June 5. L. 2005: Entire section amended, p. 188, § 27, effective April 7.

**22-60.5-310. Principal and administrator professional standards board - creation - membership - repeal. (Repealed)**

**Source:** L. 91: Entire article added, p. 505, § 1, effective June 6.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 505.)

**22-60.5-311. Powers and duties of the principal and administrator professional standards board - repeal. (Repealed)**

**Source:** L. 91: Entire article added, p. 506, § 1, effective June 6. L. 97: (3) repealed, p. 1665, § 26, effective June 5.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 506.)

**22-60.5-312. Principal and administrator professional standards board - annual joint meeting - repeal. (Repealed)**

**Source:** L. 91: Entire article added, p. 508, § 1, effective June 6.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 508.)

**22-60.5-313. Principal and administrator professional standards board - examination for basic competencies. (Repealed)**

**Source:** L. 91: Entire article added, p. 508, § 1, effective June 6. L. 2005: Entire section repealed, p. 188, § 28, effective April 7.



PART 4

MISCELLANEOUS PROVISIONS

**22-60.5-401. Educator professional standards board - creation - membership. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 508, § 1, effective June 6. **L. 2004:** Entire section repealed, p. 1282, § 7, effective May 28.

**22-60.5-402. Powers and duties of the educator professional standards board. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 509, § 1, effective June 6. **L. 97:** (3) repealed, p. 1665, § 27, effective June 5. **L. 99:** (1)(f) and (1)(g) repealed, p. 1192, § 7, effective June 1. **L. 2004:** Entire section repealed, p. 1282, § 7, effective May 28.

**22-60.5-403. Use of term “certificated” - repeal. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 511, § 1, effective June 6.

**Editor’s note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 511.)

**22-60.5-404. Change of term - direction to revisor. (Repealed)**

**Source:** **L. 91:** Entire article added, p. 511, § 1, effective June 6. **L. 2006:** Entire section repealed, p. 639, § 58, effective August 7.

ARTICLE 61

Teacher Employment

22-61-101.	Discrimination in employment prohibited.		teachers in state institutions of higher education to take oath or affirmation.
22-61-102.	No group membership.		
22-61-103.	Teacher’s oath or affirmation.	22-61-105.	Penalty.
22-61-104.	Professors, instructors, and		

**22-61-101. Discrimination in employment prohibited.** (1) No person, agency, bureau, corporation, or association employed or maintained to obtain or aid in obtaining positions or teachers, principals, superintendents, clerks, or other employees in the public schools of the state of Colorado; no individuals conducting or employed by or interested directly or indirectly in such an agency, bureau, corporation, or association; and no board of education, trustee of a school district, superintendent, principal, or teacher of a public school, or other official or employee of a board of education, directly or indirectly, shall ask, indicate, or transmit orally, or in writing, the religion or religious affiliation of any person seeking employment in the public schools of the state of Colorado.

(2) Any person who or any agency, bureau, corporation, or association which violates any of the provisions of subsection (1) of this section, or aids or incites the violation of any of said provisions, is liable for each violation to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby, in any court of competent jurisdiction in any county in which the plaintiff or defendant resides; and such person and the manager or owner of or each officer of such agency,

bureau, corporation, or association, as the case may be, for every such offense, is also guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**Source:** L. 33: p. 662, § 1. CSA: C. 146, § 234. CRS 53: § 123-17-12. C.R.S. 1963: § 123-17-4.

**Cross references:** For discriminatory and unfair employment practices generally, see § 24-34-402.

**22-61-102. No group membership.** No contract or other employment arrangement executed or made by and between any school district and teacher shall require by inference or otherwise that said teacher become a member of or belong to any group or organization.

**Source:** L. 51: p. 761, § 1. CSA: C. 146, § 234(1). CRS 53: § 123-17-13. C.R.S. 1963: § 123-17-5.

**22-61-103. Teacher's oath or affirmation.** (1) Any person now holding a license to teach in the public schools in the state of Colorado or who shall hereafter be issued a license to teach in such public schools within the state of Colorado, except any person employed to teach in a temporary capacity who is a citizen of a nation other than the United States, shall take the following oath or affirmation:

"I solemnly (swear) (affirm) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter."

(2) The said oath or affirmation shall be administered by any person authorized to administer oaths in the state of Colorado.

**Source:** L. 21: p. 719, § 1. C.L. § 8441. CSA: C. 146, § 235. CRS 53: § 123-17-14. L. 61: p. 665, § 1. C.R.S. 1963: § 123-17-6. L. 69: p. 1024, § 1. L. 2004: (1) amended, p. 1286, § 22, effective May 28.

## ANNOTATION

**This loyalty oath is not unduly vague.** A loyalty oath prescribed for teachers in Colorado state institutions which affirms the "upholding" of the state and federal constitutions and the "faithful performance, of teacher's duties is not unduly vague, but is plain, straightforward, and unequivocal, and a person taking it is not left in doubt as to his undertaking." *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Neither is it an improper invasion of rights of free association and expression.** The obligation assumed in taking the oath is one of simple recognition that ours is a government of laws and not of men, and the oath is not a sweeping and improper invasion of the rights of free association and expression. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Nor does it deprive teachers of equal protection.** The oath is an almost universal requirement of all public officials, including lawyers and judges, and it cannot be truthfully said that teachers are being deprived of equal protection of the laws by arbitrarily classifying teachers. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**The state has a vital concern in possible advocacy by teachers of forceful overthrow of government.** Since teachers work in a sensitive area in which they can shape the attitudes of the students with whom they come in contact, the state has a vital concern in the educational process, and has the right not only to screen teachers as to their fitness, but also to be concerned about possible advocacy of overthrow of the government by force and violence. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).



**This section is not a bill of attainder or ex post facto law.** The oath statute does not constitute a bill of attainder or an ex post facto law, because punishment is a prerequisite of these forbidden legislative acts, and the statute imposes no punishment. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**The imposition of qualifications is not punishment.** The statute imposes no punishment, as it is merely a general regulation providing standards of qualification and eligibility for a position, and the imposition of such qualifications by the general assembly does not amount to a "punishment". *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Swearing to "faithfully perform" their duties is not a restriction on teacher's political expression.** State can reasonably ask teachers in state schools to subscribe to professional competence and dedication, and this portion of the oath providing that they will "faithfully perform their duties" of their positions merely reflects the significant interest of the state in assuring the careful selection of teachers, and imposes no restrictions on a teacher's political expressions. It is certain that there is no right to be unfaithful in the performance of duties, and hence this undertaking is implicit. *Ohlson v. Phillips*, 304

F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**In this oath the phrase to "uphold the constitution" means an affirmation of belief in organic law and disbelief in the use of force to overthrow the government.** *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**No hearing is required where teacher is dismissed for failure to take the oath.** Due process does not demand a hearing in connection with every dismissal from public employment. A teacher who is dismissed for refusal to take the oath has no need to be faced with his accuser or given an opportunity for cross-examination, since no amount of hearing can change the fact that the person refused to take the oath. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Reasons for refusal to take oath are not relevant.** A teacher's reasons for refusal to take the oath are not relevant, because where the oath is simple, direct, and unambiguous, the hearing as to why the accused refused to take it would be virtually meaningless. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), aff'd mem., 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, reh'g denied, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**22-61-104. Professors, instructors, and teachers in state institutions of higher education to take oath or affirmation.** (1) Every person employed to teach in any state university, college, junior college, community college, or technical college in the state of Colorado, before entering upon or continuing the discharge of his duties, shall take the following oath or affirmation; except that no person employed to teach in a temporary capacity who is a citizen of a nation other than the United States shall be required to take such oath or affirmation:

"I solemnly (swear) (affirm) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter."

(2) The said oath or affirmation shall be administered by any person authorized to administer oaths in the state of Colorado.

**Source: L. 21: p. 720, § 2. C.L. § 8442. CSA: C. 146, § 236. CRS 53: § 123-17-15. L. 61: p. 666, § 2. C.R.S. 1963: § 123-17-7. L. 69: p. 1024, § 2.**

#### ANNOTATION

**Oath is not vague or indefinite and does not curtail freedom of expression.** Oath required of employees and faculty at state university, by which taker would swear or affirm to support the federal and state constitutions and laws is not vague and indefinite and does not have a ten-

dency to curtail freedom of expression, since recognition of and respect for law in no way prevents the right to dissent and question repugnant laws. *Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), aff'd mem., 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed. 2d 275 (1968).

**This new oath applies to all faculty and employees.** New oath required of employees and faculty at state university, under which taker swears or affirms that he will support the state and federal constitutions and laws, which replaces old oath struck down as unconstitutional, is applicable equally to all the faculty and employees. *Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), *aff'd mem.*, 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed. 2d 275 (1968).

**Because application to new employees alone would violate equal protection.** To apply this new oath to new employees alone would constitute an invalid and discriminatory classification which would violate the equal protection clause of the United States constitution.

*Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), *aff'd mem.*, 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed. 2d 275 (1968).

**No hearing is required for those who refuse to take the oath.** Failure to provide a hearing for employees or faculty at state university who refused to take oath to support federal and state constitutions and laws did not constitute a violation of procedural due process. *Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), *aff'd mem.*, 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed. 2d 275 (1968).

**For unconstitutionality of previous version of the oath,** see *Gallagher v. Smiley*, 270 F. Supp. 86 (D. Colo. 1967).

**22-61-105. Penalty.** Any person who, being in charge of any public school, state university, college, junior college, community college, or technical college within the state of Colorado, allows or permits any teacher to enter upon the discharge of his duties or give instruction therein, unless such teacher shall have taken the oath or affirmation provided for in sections 22-61-103 and 22-61-104, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**Source:** L. 21: p. 720, § 3. C.L. § 8443. CSA: C. 146, § 237. CRS 53: § 123-17-16. C.R.S. 1963: § 123-17-8. L. 69: p. 1025, § 3.

ARTICLE 61.5

Colorado Teacher of the Year

- |              |                              |   |
|--------------|------------------------------|---|
| 22-61.5-101. | Short title.                 |   |
| 22-61.5-102. | Legislative declaration.     |   |
| 22-61.5-103. | Definitions.                 |   |
| 22-61.5-104. | Colorado teacher of the year |   |
|              |                              | program - created - administration - rules. |
| 22-61.5-105. | Colorado teacher of the year |   |
|              |                              | fund - created.                             |

**22-61.5-101. Short title.** This article shall be known and may be cited as the “Colorado Teacher of the Year Act”.

**Source:** L. 2009: Entire article added, (HB 09-1240), ch. 236, p. 1076, § 1, effective August 5.

**22-61.5-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) An effective teacher providing quality instruction is the single, greatest factor influencing student achievement, having a greater impact than the characteristics of a child, including poverty, race, or family history. Further, quality instruction in the classroom is the most direct way to provide equal opportunities in education, especially for at-risk students. A review of the world’s top school systems suggests that three things matter most in education: Recruiting the right people to become teachers; developing these people into effective instructors; and ensuring that the educational system is able to deliver the best possible instruction for every child.

(b) The state’s long-term success in achieving many of the educational goals Colorado has identified for its students will require a fundamental transformation of the teaching profession. Making a long-term commitment to reshaping the way in which Colorado attracts, trains, supports, and retains teachers is the best way to tackle problems in education, including the achievement gap, high dropout rates, and low graduation rates. This commitment will require new partnerships between the government and the private



sector and among the department of education, the department of higher education, school districts, and educational membership associations, as well as a variety of other stakeholders, including, but not limited to, elected officials, business leaders, and community leaders throughout the state.

(2) The general assembly therefore declares that Colorado is committed to honoring the nobility of the teaching profession. One of the simplest and yet most profound ways to show the state's commitment to teaching is for Colorado to join other states that have elevated both the recognition and the role of the teacher named teacher of the year and to establish the Colorado teacher of the year program.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1076, § 1, effective August 5.

**22-61.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Award recipient" means the teacher named Colorado teacher of the year.

(2) "Colorado teacher of the year" means the Colorado teacher named teacher of the year in the state program administered by the department and coordinated through the national teacher of the year program.

(3) "Department" means the department of education created in section 24-1-115, C.R.S.

(4) "Program" means the Colorado teacher of the year program described in this article.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1077, § 1, effective August 5.

**22-61.5-104. Colorado teacher of the year program - created - administration - rules.** (1) There is hereby created in the department the Colorado teacher of the year program to honor and reward the teacher named annually as the Colorado teacher of the year. The department shall administer the program.

(2) The state board shall adopt rules necessary for the creation and implementation of the program. Elements of the program may include, but need not be limited to, the following:

(a) The program may reward the award recipient with gifts, services, and opportunities that may include, but need not be limited to:

(I) A sabbatical from teaching responsibilities that includes moneys awarded to the award recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical;

(II) A cash gift;

(III) Travel and lodging expenses;

(IV) A computer;

(V) Supplies and equipment for the award recipient's classroom or school; and

(VI) The opportunity to receive additional training or education.

(b) During his or her tenure as Colorado teacher of the year, the award recipient may participate in activities that may include, but need not be limited to:

(I) Participating in local, regional, and national events related to the award recipient's designation as Colorado teacher of the year;

(II) Promoting the teaching profession;

(III) Teaching best practices to other teachers;

(IV) Teaching temporarily in other public schools or school districts;

(V) Mentoring students in educator preparation programs and supporting newer teachers in Colorado;

(VI) Collaborating with institutions of higher education in scholarly research and teaching; and

(VII) Participating in special projects relating to education that are important to the award recipient.

(3) The department may collaborate with a private entity in implementing the program and may accept services and in-kind donations from the private entity.

**Source:** L. 2009: Entire article added, (HB 09-1240), ch. 236, p. 1077, § 1, effective August 5. L. 2011: (2)(b)(V) amended, (SB 11-245), ch. 201, p. 850, § 12, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(b)(V), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-61.5-105. Colorado teacher of the year fund - created.** (1) (a) The department is authorized to seek and accept gifts, grants, or donations for the purposes of this article; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the Colorado teacher of the year fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with the implementation of the program.

(b) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund.

(c) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The department may expend up to ten percent of the moneys annually credited to the fund to offset the costs incurred in implementing the program.

**Source:** L. 2009: Entire article added, (HB 09-1240), ch. 236, p. 1078, § 1, effective August 5.

## ARTICLE 62

### Cooperative Teacher Education Act

22-62-101.	Short title.	22-62-104.	Payment of cost from public funds.
22-62-102.	Legislative declaration.	22-62-105.	Authority and status of student teachers.
22-62-103.	Authority to enter into agreements.		

**22-62-101. Short title.** This article shall be known and may be cited as the "Cooperative Teacher Education Act of 1973".

**Source:** L. 73: p. 1317, § 1. C.R.S. 1963: § 123-45-1.

**22-62-102. Legislative declaration.** The general assembly hereby declares that the purpose of this article is to implement cooperative ventures in teacher education between public and private schools and institutions of higher education, to establish the legal status of student teachers, and to enable the release of public moneys to finance such ventures.

**Source:** L. 73: p. 1317, § 1. C.R.S. 1963: § 123-45-2. L. 75: Entire section amended, p. 728, § 1, effective May 22.

**22-62-103. Authority to enter into agreements.** (1) The board of education of each school district is authorized to enter into written, contractual agreements or arrangements



with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution, regardless of the title of his position. A student teacher is a student engaged in a major field experience with increasing responsibility for teaching, supervision, and direction of an identified group of learners. The student teaching field experience is normally the terminal field experience in the professional exposure to public schools leading to certification.

(2) Each such agreement or arrangement shall set out the rights and responsibilities of the cooperating school districts, teacher preparation institutions, students, and other participating personnel.

**Source:** L. 73: p. 1317, § 1. C.R.S. 1963: § 123-45-3. L. 75: (1) amended, p. 728, § 2, effective May 22.

**22-62-104. Payment of cost from public funds.** (1) The respective governing boards of state colleges and universities are authorized to pay the contracting boards of education for the services of teachers who supervise student teachers and, if an agreement has been entered into pursuant to subsection (2) of this section, to student teachers in an amount determined by the respective governing boards.

(2) Each school district may, by mutual consent of the parties to the agreement, provide compensation to student teachers.

(3) All moneys authorized for the payment of services under this section shall be paid directly to teachers and, if an agreement has been entered into pursuant to subsection (2) of this section, to student teachers. No such moneys shall be utilized for the payment of administrative costs.

**Source:** L. 73: p. 1317, § 1. C.R.S. 1963: § 123-45-4. L. 75: (2) amended, p. 729, § 3, effective May 22. L. 95: Entire section amended, p. 571, § 1, effective May 22.

**22-62-105. Authority and status of student teachers.** (1) Any student teacher, during the time that such student is assigned to a field experience within a public school, shall be deemed to be a public employee of the school district within the meaning of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S. The duties and responsibilities of the student teacher shall be determined by mutual agreement between the school district and the authorized representative of the college.

(2) The student teacher, during his practice teaching in a school, shall be deemed an employee of the school district for the purpose of workers' compensation and liability insurance as provided for other school employees.

**Source:** L. 73: p. 1318, § 1. C.R.S. 1963: § 123-45-5. L. 75: Entire section amended, p. 729, § 4, effective May 22. L. 81: (2) amended, p. 462, § 3, effective July 1. L. 90: (2) amended, p. 566, § 41, effective July 1.

#### ANNOTATION

**This section does not create new right to workmen's compensation** for student teachers. Sch. Dist. No. 60 v. Indus. Comm'n, 43 Colo. App. 38, 601 P.2d 651 (1979).

**Subsection (2) shifts responsibility therefor.** Subsection (2) deems the school district the employer of the student teacher whereas the general provisions of § 8-41-106 (1)(a)(IV) designate the sponsoring institution as the em-

ployer of its job trainees. Subsection (2) merely shifts workmen's compensation liability for injury to student teachers to a different institution: where applicable, it is a legally enforceable specific exception to the general rule prescribed by § 8-41-106 (1)(a)(IV). Sch. Dist. No. 60 v. Indus. Comm'n, 43 Colo. App. 38, 601 P.2d 651 (1979).

ARTICLE 62.5

Exceptional Learning Program

22-62.5-101 to 22-62.5-108. (Repealed)

**Editor’s note:** (1) This article was added in 1992. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-62.5-108 provided for the repeal of this article, effective July 1, 1997. (See L. 92, p. 527.)

ARTICLE 63

Teacher Employment,  
Compensation, and Dismissal

**Editor’s note:** This article was numbered as article 18 of chapter 123, C.R.S. 1963. This article was repealed and reenacted in 1990, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

PART 1

GENERAL PROVISIONS

- 22-63-101. Short title.
- 22-63-102. Legislative declaration.
- 22-63-103. Definitions.
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PART 2

EMPLOYMENT

- 22-63-201. Employment - license required - exception.
- 22-63-202. Employment contracts - contracts to be in writing - duration - damage provision - repeal.
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- 22-63-203.5.
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- and nonrenewal of employment contract - repeal.
- Nonprobationary portability.
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PART 3

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- 22-63-301. Grounds for dismissal.
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COMPENSATION

- 22-63-401. Salary schedule - adoption - changes.
- 22-63-402. Services - disbursements.
- 22-63-403. Payment of salaries.

PART 1

GENERAL PROVISIONS

**22-63-101. Short title.** This article shall be known and may be cited as the “Teacher Employment, Compensation, and Dismissal Act of 1990”.

**Source: L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1.

**Editor’s note:** This section is similar to former § 22-63-101 as it existed prior to 1990.



## ANNOTATION

**The teacher tenure act creates a contract by law** between the school board and its teachers. *Julesburg Sch. Dist. No. RE-1 v. Ebke*, 193 Colo. 40, 562 P.2d 419 (1977); *Ebke v. Julesburg Sch. Dist. No. RE-1*, 622 P.2d 95 (Colo. App. 1980); *Lockhart v. Arapahoe County Sch. Dist. No. 6*, 735 P.2d 913 (Colo. App. 1986).

**The general assembly intended to harness the school board's previously unrestricted power of dismissal** and to assure tenured teachers of greater protection of their rights than had previously been afforded. *Lovett v. Blair*, 39 Colo. App. 512, 571 P.2d 731 (1977), *aff'd*, 196 Colo. 118, 582 P.2d 668 (1978).

**Act to protect academic freedom of tenured teachers.** This act is designed to provide

substantial protection for the academic freedom of teachers who have achieved tenured status and a primary facet of that protection is the availability, at the teacher's request, of an evidentiary hearing panel chosen in a manner designed to ensure its neutrality. *Blair v. Lovett*, 196 Colo. 118, 582 P.2d 668 (1978).

**Boards of education have primary responsibility for hiring and firing teachers in their school districts.** *Adams County Sch. Dist. No. 50 v. Heimer*, 919 P.2d 786 (Colo. 1996).

**Applied** in *Frankmore v. Bd. of Educ.*, 41 Colo. App. 416, 589 P.2d 1375 (1978); *Gilbert v. Sch. Dist. No. 50*, 485 F. Supp. 505 (D. Colo. 1980); *Denver Classroom Tchrs. v. Denver Sch. Dist. No. 1*, 738 P.2d 414 (Colo. App. 1987).

**22-63-102. Legislative declaration.** The general assembly hereby finds and declares that this article is enacted to ensure that the educational system of the state of Colorado is being served by the best teachers available while at the same time allowing such teachers the academic freedom necessary to provide the best education possible to the children of this state.

**Source: L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1.

**22-63-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Academic year" means that portion of the school year during which the public schools of a school district are in regular session, beginning about the first week in September and ending about the first week in June next following.

(1.5) "Administrator" means any person who administers, directs, or supervises the education instructional program, or a portion thereof, in any school or school district in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

(2) "Alternative year program" means an academic year meeting the minimum hours required in section 22-32-109 (1) (n) and which is in session for a period of time other than the standard academic year.

(3) "Board" means the board of education of a school district.

(4) "Dismissal" means the involuntary termination of employment of a teacher for any reason other than a justifiable decrease in teaching positions.

(5) "Nonrenewal" means the involuntary termination of employment of a probationary teacher by a board at the expiration of a specific contractual period.

(6) "Part-time teacher" means a teacher who normally performs services as an employee of a school in an amount of time less than four hours during each regular school day.

(7) "Probationary teacher" means a teacher who has not completed three consecutive years of demonstrated effectiveness or a nonprobationary teacher who has had two consecutive years of demonstrated ineffectiveness, as defined by rule adopted by the general assembly pursuant to section 22-9-105.5.

(8) "School district" means a school district organized and existing pursuant to law.

(9) "School year" means July 1 through June 30 next following.

(10) "Substitute teacher" means a teacher who normally performs services as an employee of a school district for four hours or more during each regular school day, but works on one continuous assignment for a total of less than ninety regular school days, or for less than one semester or equivalent time as determined by the annual school year calendar of the district in which the teacher is employed during an academic year. "Substitute teacher" also means an itinerant teacher who, as an employee of a school

district, normally performs services on a day-to-day or similar short-term basis during an academic year as a replacement teacher for a nonprobationary teacher employed pursuant to section 22-63-202, a probationary teacher employed pursuant to section 22-63-203, or a part-time teacher while the nonprobationary, probationary, or part-time teacher is absent or otherwise unavailable. "Substitute teacher" does not include any nonprobationary or probationary teacher who is assigned as a permanent substitute teacher within a school district.

(11) "Teacher" means any person who holds a teacher's license issued pursuant to the provisions of article 60.5 of this title and who is employed to instruct, direct, or supervise the instructional program. "Teacher" does not include those persons holding authorizations and the chief administrative officer of any school district.

**Source:** **L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1. **L. 98:** (10) amended, p. 15, § 1, effective March 16. **L. 2000:** (1.5) added, p.1062, § 1, effective May 26; (11) amended, p.1860, § 67, effective August 2. **L. 2010:** (7) amended, (SB 10-191), ch. 241, p. 1070, § 10, effective May 20.

**Editor's note:** This section is similar to former § 22-63-102 as it existed prior to 1990.

### ANNOTATION

**Annotator's note.** Since § 22-63-103 is similar to § 22-63-102 as it existed prior to the 1990 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

**Personnel held to be "teachers" within the definition in this section.** Sch. Dist. No. 2 v. Brenton, 137 Colo. 247, 323 P.2d 899 (1958); Robb v. Sch. Dist. No. RE 50(J), 28 Colo. App. 453, 475 P.2d 30 (1970).

**Eligibility for certificate not relevant to determination as "teacher".** Because a teacher must hold a valid and current teacher's certificate to acquire tenure under the teacher employ-

ment, dismissal, and tenure act, an individual's eligibility for such certificate is of no consequence to the issue of who is a "teacher" within the meaning of this section. Milan v. Aims Junior Coll. Dist., 623 P.2d 65 (Colo. App. 1980).

**Where person did not hold a valid and current teacher's certificate at the time of her dismissal,** she was not a "teacher" within the meaning of this article. Frey v. Adams County Sch. Dist. No. 14, 771 P.2d 27 (Colo. App. 1989).

**Applied** in Blair v. Lovett, 196 Colo. 118, 582 P.2d 668 (1978).

### **22-63-104. Teacher employment and compensation committee - creation - issues to be studied. (Repealed)**

**Source:** **L. 90:** Entire article R&RE, p. 1118, § 1, effective July 1.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective January 1, 1991. (See L. 90, p. 1118.)

### PART 2

### EMPLOYMENT

**22-63-201. Employment - license required - exception.** (1) Except as otherwise provided in subsection (2) of this section, the board of a school district shall not enter into an employment contract with any person as a teacher, except in a junior college district or in an adult education program, unless such person holds an initial or a professional teacher's license or authorization issued pursuant to the provisions of article 60.5 of this title.

(2) (a) The general assembly hereby recognizes that many persons with valuable professional expertise in areas other than teaching provide a great benefit to students through their experience and functional knowledge when hired by a school district. To facilitate the employment of these persons and comply with the requirements of federal law, the general assembly has statutory provisions to create an alternative teacher license and



alternative teacher programs to enable school districts to employ persons with expertise in professions other than teaching. These provisions enable a school district to employ a person with professional expertise in a particular subject area, while ensuring that the person receives the necessary training and develops the necessary skills to be a highly qualified teacher. The general assembly strongly encourages each school district to hire persons who hold alternative teacher licenses to provide a wide range of experience in teaching and functional subject matter knowledge for the benefit of the students enrolled in the school district.

(b) A school district may hire a person who holds an alternative teacher license to teach as an alternative teacher pursuant to an alternative teacher contract as described in section 22-60.5-207.

(3) The board of a school district may enter into an employment contract with any person to serve as an administrator based upon qualifications set by the board of the school district. Nothing in this article shall be construed to require that an administrator, as a condition of employment, possess any type of license or authorization issued pursuant to article 60.5 of this title.

**Source:** **L. 90:** Entire article R&RE, p. 1120, § 1, effective July 1. **L. 99:** Entire section amended, p. 1196, § 12, effective June 1. **L. 2000:** (3) added, p.1062, § 2, effective May 26. **L. 2005:** (1) and (2) amended, pp. 189, 190, §§ 32, 36, effective April 7. **L. 2009:** (2) amended, (SB 09-160), ch. 292, p. 1456, § 10, effective May 21.

**Editor's note:** This section is similar to former § 22-63-103 as it existed prior to 1990.

#### ANNOTATION

**Annotator's note.** Since § 22-63-201 is similar to § 22-63-103 as it existed prior to the 1990 repeal and reenactment of this article and to repealed laws antecedent to CSA, C. 146, § 219, relevant cases construing those provisions have been included in the annotations to this section.

**The law contemplates that the schools shall be taught only by persons of proper and sufficient moral and educational qualifications.** For this purpose laws provide for the examination of those desiring to teach, and for the issuance to those qualified of certificates to that effect, which shall be licenses to teach. *Catlin v. Christie*, 15 Colo. App. 291, 63 P. 328 (1900).

**The statute undoubtedly provides that a teacher must hold a certificate,** and it is a condition precedent to the right to recover wages, though the teacher may have rendered services. *Sch. Dist. No. 1 v. Ross*, 4 Colo. App. 493, 36 P. 560 (1894); *Sch. Dist. No. 25 v. Stone*, 14 Colo. App. 211, 59 P. 885 (1900).

**A certificate regular and valid upon its face is all that is required** under the law to authorize the board of a school district to enter into a contract with a teacher. *Sch. Dist. No. 25 v. Stone*, 14 Colo. App. 211, 59 P. 885 (1900).

**A certificate to teach is not subject to collateral attack.** The want of an examination cannot be pleaded as a defense in this action, because, in the absence of fraud, a certificate to teach is not subject to collateral attack; it is in the nature of a commission, and is subject to the

same rules of law in that respect. *Sch. Dist. No. 25 v. Stone*, 14 Colo. App. 211, 59 P.885 (1900).

**Board cannot employ a teacher who does not have a certificate.** The board of education of a school district should not be permitted to violate this section, either directly or by evasion, because it has no discretion to employ a teacher disqualified by law. *Catlin v. Christie*, 15 Colo. App. 291, 63 P. 328 (1900).

**A contract employing a teacher without a certificate is void ab initio.** A contract entered into between a school board and a teacher not holding a certificate to teach is void ab initio, and a cause of action supported only by proof of such contract cannot be sustained, where the same is not in any manner lawfully ratified by the school board after the teacher became qualified by receiving a certificate. *Catlin v. Christie*, 15 Colo. App. 291, 63 P. 328 (1900); *Sch. Dist. No. 46 v. Johnson*, 26 Colo. App. 433, 143 P. 264 (1914); *Sch. Dist. No. 76 v. Kirby*, 27 Colo. App. 300, 149 P. 260 (1915).

**In an action to restrain a board of education from employing a teacher not qualified** under the law, an allegation that the teacher did not have any certificate "in force during any of the times mentioned in the complaint" is not an allegation of a legal conclusion, and is a necessary allegation in a complaint in order to bring the alleged violation within the terms of the statute. *Catlin v. Christie*, 15 Colo. App. 291, 63 P. 328 (1900).

**"Teacher" in junior college setting.** This section, when read together with § 22-60-103

(9), does not change the meaning of "teacher" in the junior college setting to the extent that such teacher need not hold a certificate to acquire tenure. *Milan v. Aims Junior Coll. Dist.*, 623 P.2d 65 (Colo. App. 1980).

**Expiration of person's teacher's certificate does not mean that the person is no longer a "teacher"** who is entitled to review of their dismissal under this act. *Frey v. Adams County Sch. Dist. No. 14*, 804 P.2d 851 (Colo. 1991).

**22-63-202. Employment contracts - contracts to be in writing - duration - damage provision - repeal.** (1) Except for a part-time or substitute teacher, every employment contract entered into by any teacher or chief administrative officer for the performance of services for a school district shall be in writing.

(2) (a) A teacher or chief administrative officer and the board may mutually agree to terminate the teacher's or chief administrative officer's employment contract at any time.

(b) Each employment contract executed pursuant to this section shall contain a provision stating that a teacher or chief administrative officer shall not terminate his or her employment contract with the board without the agreement of the board unless:

(I) If the teacher or chief administrative officer intends to terminate his or her employment contract for the succeeding academic year, the teacher or chief administrative officer gives written notice to the board of his or her intent no later than thirty days prior to the commencement of the succeeding academic year or, if a school district operates an alternative year program, not less than thirty days before the commencement of services under the employment contract; or

(II) If the teacher or chief administrative officer intends to terminate his or her employment contract for the current academic year after the beginning of the academic year, the teacher or chief administrative officer shall give written notice to the board of his or her intent at least thirty days prior to the date that the teacher or chief administrative officer intends to stop performing the services required by the employment contract.

(b.5) Each employment contract executed pursuant to this section shall contain a provision stating that a teacher or chief administrative officer shall accept the terms of the employment contract for the succeeding academic year within thirty days of receipt of the contract, unless the teacher or chief administrative officer and the district have reached an alternative agreement. If a teacher or chief administrative officer does not accept the terms of the employment contract within thirty days of receipt, the district shall be authorized to open the position to additional candidates.

(c) Each employment contract executed pursuant to this section shall contain a damages provision whereby a teacher or chief administrative officer who violates the provision required by paragraph (b) of this subsection (2) without good cause shall agree to pay damages to the school district, and the board thereof shall be authorized to collect or withhold damages from compensation due or payable to the teacher or chief administrative officer, in an amount equal to the lessor of:

(I) The ordinary and necessary expenses of a board to secure the services of a suitable replacement teacher or chief administrative officer; or

(II) One-twelfth of the annual salary specified in the employment contract.

(c.5) (I) The general assembly finds that, for the fair evaluation of a principal based on the demonstrated effectiveness of his or her teachers, the principal needs the ability to select teachers who have demonstrated effectiveness and have demonstrated qualifications and teaching experience that support the instructional practices of his or her school. Therefore, each employment contract executed pursuant to this section shall contain a provision stating that a teacher may be assigned to a particular school only with the consent of the hiring principal and with input from at least two teachers employed at the school and chosen by the faculty of teachers at the school to represent them in the hiring process, and after a review of the teacher's demonstrated effectiveness and qualifications, which review demonstrates that the teacher's qualifications and teaching experience support the instructional practices of his or her school.

(II) (A) Any active nonprobationary teacher who, during the prior school year, was deemed satisfactory, or was deemed effective in a district that has implemented a multi-tiered evaluation system and has identified ratings equivalent to effective, and has not secured a position through school-based hiring shall be a member of a priority hiring pool,



which priority hiring pool shall ensure the nonprobationary teacher a first opportunity to interview for available positions for which he or she is qualified in a school district.

(B) When a determination is made that a nonprobationary teacher's services are no longer required for the reasons set forth in subparagraph (VII) of this paragraph (c.5), the nonprobationary teacher shall be notified of his or her removal from the school. In making decisions pursuant to this paragraph (c.5), a school district shall work with its local teachers association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight-person committee consisting of four school district members and four teachers, which committee shall develop such policies. Upon notice to the nonprobationary teacher, the department of human resources for the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need. An application for a vacancy shall be made to the principal of a listed school, with a copy of the application provided by the nonprobationary teacher to the school district. When a principal recommends appointment of a nonprobationary teacher applicant to a vacant position, the nonprobationary teacher shall be transferred to that position.

(C) This subparagraph (II) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(III) (A) Any active nonprobationary teacher who was deemed effective during the prior school year and has not secured a mutual consent placement shall be a member of a priority hiring pool, which priority hiring pool shall ensure the nonprobationary teacher a first opportunity to interview for a reasonable number of available positions for which he or she is qualified in the school district.

(B) When a determination is made that a nonprobationary teacher's services are no longer required for the reasons set forth in subparagraph (VII) of this paragraph (c.5), the nonprobationary teacher shall be notified of his or her removal from the school. In making decisions pursuant to this paragraph (c.5), a school district shall work with its local teachers association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight-person committee consisting of four school district members and four teachers, which committee shall develop such policies. Upon notice to the nonprobationary teacher, the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need. An application for a vacancy shall be made to the principal of a listed school, with a copy of the application provided by the nonprobationary teacher to the school district. When a principal recommends appointment of a nonprobationary teacher applicant to a vacant position, the nonprobationary teacher shall be transferred to that position.

(C) This subparagraph (III) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(IV) If a nonprobationary teacher is unable to secure a mutual consent assignment at a school of the school district after twelve months or two hiring cycles, whichever period is longer, the school district shall place the teacher on unpaid leave until such time as the teacher is able to secure an assignment. If the teacher secures an assignment at a school of the school district while placed on unpaid leave, the school district shall reinstate the teacher's salary and benefits at the level they would have been if the teacher had not been placed on unpaid leave.

(V) Nothing in this section shall limit the ability of a school district to place a teacher in a twelve-month assignment or other limited-term assignments, including, but not limited to, a teaching assignment, substitute assignment, or instructional support role during the period in which the teacher is attempting to secure an assignment through school-based hiring. Such an assignment shall not constitute an assignment through school-based hiring and shall not be deemed to interrupt the period in which the teacher is required to secure an assignment through school-based hiring before the district shall place the teacher on unpaid leave.

(VI) The provisions of this paragraph (c.5) may be waived in whole or in part for a renewable four-year period by the state board of education pursuant to section 22-2-117, provided that the local school board applying for the waiver, in conjunction with the superintendent and teachers association in a district that has an operating master employment contract, if applicable, demonstrates that the waiver is in the best interest of students enrolled in the school district, supports the equitable distribution of effective teachers, and will not result in placement other than by mutual consent of the teacher in a school district or public school that is required to implement a priority improvement plan or turnaround plan pursuant to article 11 of this title. Notwithstanding the provisions of this paragraph (c.5), a waiver shall not be granted for a request that extends the time for securing an assignment through school-based hiring for more than two years.

(VII) This paragraph (c.5) shall apply to any teacher who is displaced as a result of drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.

(d) The department of education may suspend the license, endorsement, or authorization of a teacher or chief administrative officer who fails to provide the notice required by paragraph (b) of this subsection (2) and who abandons, fails, or refuses to perform required services pursuant to an employment contract, without good cause.

(3) A teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board pursuant to section 22-63-302 or may have his or her employment contract cancelled during the contractual period when there is a justifiable decrease in the number of teaching positions. The manner in which employment contracts will be cancelled when there is a justifiable decrease in the number of teaching positions shall be included in any contract between the board of education of the school district and school district employees or in an established policy of the board, which contract or policy shall include the criteria described in section 22-9-106 as significant factors in determining which employment contracts to cancel as a result of the decrease in teaching positions. Effective February 15, 2012, the contract or policy shall include consideration of probationary and nonprobationary status and the number of years a teacher has been teaching in the school district; except that these criteria may be considered only after the consideration of the criteria described in section 22-9-106 and only if the contract or policy is in the best interest of the students enrolled in the school district.

(4) (a) Notwithstanding the provisions of section 24-72-204 (3) (a), C.R.S., upon a request from a school district or a school concerning a person applying for a position as a teacher, a school district may disclose to the requesting school district or school the reason or reasons why a teacher left employment with the original school district. Upon the specific request of a school district at which a teacher has applied for employment, a school district may disclose any pertinent performance record or disciplinary record of a teacher that specifically relates to any negligent action of the teacher that was found to have endangered the safety and security of a student or any disciplinary record that relates to behavior by the teacher that was found to have contributed to a student's violation of the school district's conduct and discipline code. The information disclosed pursuant to this paragraph (a) shall only be disclosed to personnel authorized to review the personnel file in the school district or school and to the person applying for a position as a teacher.

(b) No employment contract executed pursuant to this section shall contain a provision that restricts or prohibits a school district from disclosing to another school district or school the reason or reasons why a teacher left employment with the original school district or from disclosing to another school district any of the teacher's disciplinary or performance records pursuant to paragraph (a) of this subsection (4).



**Source:** **L. 90:** Entire article R&RE, p. 1120, § 1, effective July 1. **L. 93:** (3) amended, p. 894, § 25, effective May 6; (2)(a) amended, p. 900, § 1, effective July 2. **L. 97:** (2)(a) amended, p. 398, § 1, effective August 15. **L. 99:** (4) added, p. 1104, § 8, effective July 1. **L. 2000:** (4) amended, p. 1965, § 10, effective June 2; (2)(b) amended, p. 1860, § 68, effective August 2. **L. 2006:** (2) R&RE, p. 924, § 4, effective July 1. **L. 2009:** (2)(b.5) added, (SB 09-256), ch. 294, p. 1553, § 7, effective May 21. **L. 2010:** (2)(c.5) added and (3) amended, (SB 10-191), ch. 241, pp. 1070, 1073, §§ 11, 12, effective May 20.

**Editor's note:** (1) This section is similar to former § 22-63-107 as it existed prior to 1990.

(2) (a) As of the date of publication, the revisor of statutes has not received the notice referred to in subsection (2)(c.5)(II) that would cause the repeal of that provision.

(b) As of the date of publication, the revisor of statutes has not received the notice referred to in subsection (2)(c.5)(III) that would allow that provision to become effective.

## ANNOTATION

**Annotator's note.** Since § 22-63-202 is similar to § 22-63-107 as it existed prior to the 1990 repeal and reenactment of this article and to repealed laws antecedent to CSA, C. 146, § 249, a case construing those provisions has been included in the annotations to this section.

**Constitutionality.** This section does not violate the due process clause where former teachers had deductions taken from their paychecks by a board of education pursuant to this section to recover the costs of their replacements, despite board's failure to hold an administrative hearing on the matter. Action for breach of contract was available to resolve disputes concerning the board's deductions under this section. *Stackhouse v. Sch. Dist. No. 1*, 919 P.2d 902 (Colo. App. 1996).

**This section was enacted to prevent capricious interference by either party** in the contract to teach, a contract in which the public has an interest. *Sch. Dist. No. 1 v. Parker*, 82 Colo. 385, 260 P. 521 (1927).

**The term "ordinary and necessary expenses" is limited to actual cash outlays** and does not include overhead for purposes of calculating maximum damages. *Klinger v. Adams County Sch. Dist. No. 50*, 130 P.3d 1027 (Colo. 2006).

**The public has an interest in contracts to teach.** A contract to teach in the public schools differs from the ordinary contract in that the public has an interest in it, and in not having it capriciously interfered with by either party. *Sch. Dist. No. 1 v. Parker*, 82 Colo. 385, 260 P. 521 (1927).

**Trial court erred in entering summary judgment, as the issue of the amount of ordinary and necessary expenses** incurred by the board in replacing plaintiffs was disputed. Board was required to prove that the amount it withheld did not exceed the ordinary and necessary expenses incurred in securing a suitable replacement for a particular teacher. *Stackhouse v. Sch. Dist. No. 1*, 919 P.2d 902 (Colo. App. 1996).

**22-63-203. Probationary teachers - renewal and nonrenewal of employment contract - repeal.** (1) (a) Except as provided for in paragraph (b) of this subsection (1), the provisions of this section shall apply only to probationary teachers and shall no longer apply when the teacher has been reemployed for the fourth year, except as provided for in paragraph (a.5) of subsection (4) of this section. This paragraph (a) is repealed, effective July 1, 2014.

(b) For any school district that has implemented the performance evaluation system based on quality standards pursuant to section 22-9-106 and the rules adopted by the state board pursuant to section 22-9-105.5, the provisions of this section shall apply only to probationary teachers and shall no longer apply when the teacher has been granted nonprobationary status as a result of three consecutive years of demonstrated effectiveness, as determined through his or her performance evaluations and continuous employment.

(2) (a) During the first three school years that a teacher is employed on a full-time continuous basis by a school district, such teacher shall be considered to be a probationary teacher whose employment contract may be subject to nonrenewal in accordance with subsection (4) of this section. A school district may also consider a teacher employed on a part-time continuous basis by such district and by a board of cooperative services to be a probationary teacher whose contract may be subject to nonrenewal in accordance with subsection (4) of this section. An employment contract with a probationary teacher shall not exceed one school year.

(b) For purposes of paragraph (a) of this subsection (2):

(I) A probationary teacher who is employed as a teacher in an alternative year program is deemed to be employed on a full-time basis during a school year if he performs services for at least the minimum period during which a pupil must be enrolled in any twelve-month period. The employment of any such probationary teacher as a teacher in such an alternative year program for such minimum period in successive twelve-month periods shall be deemed continuous.

(II) A probationary teacher who is employed after the first day of the academic year is deemed to be employed for a full school year if the period of continuous and uninterrupted employment during that year includes the last one hundred twenty school days of the academic year.

(III) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the temporary illness of a probationary teacher. A leave of absence approved by the board of a school district or a military leave of absence pursuant to article 3 of title 28, C.R.S., shall not be considered to be an interruption of the consecutive years of demonstrated effectiveness and continuous employment required for the probationary period, but the time of such leaves of absence shall not be included in computing the required probationary period.

(IV) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the acceptance by a probationary teacher of the position of chief administrative officer in said school district, but the period of time during which such teacher serves in such capacity shall not be included in computing said probationary period.

(3) A probationary teacher employed by a school district on a full-time basis shall be deemed to be reemployed for the succeeding academic year at the salary that the probationary teacher would be entitled to receive under the general salary schedule, the teacher salary policy, or the combination schedule and policy, whichever is appropriate, unless the board causes written notice to the contrary to be given to said teacher on or before June 1 of the academic year during which said teacher is employed. Such teacher shall be presumed to have accepted such employment for the succeeding academic year unless said teacher causes written notice to the contrary to be given to the board no later than thirty days prior to the commencement of the succeeding academic year.

(4) (a) The chief administrative officer of the employing school district may recommend that the board not renew the employment contract of a probationary teacher for any reason he deems sufficient. If the board, based upon such recommendation, does not renew the employment contract of a probationary teacher, such teacher shall be given a written notice of contract nonrenewal.

(a.5) (I) Beginning with the 2010-11 school year, an employing school district may opt to renew the teacher's contract on either a probationary or nonprobationary status or to not renew the contract of a probationary teacher who has completed his or her third year of employment. This paragraph (a.5) shall be repealed after the performance evaluation system based on quality standards has been implemented pursuant to section 22-9-105.5.

(II) A probationary teacher who is deemed to be performing satisfactorily in any of school years 2010-11, 2011-12, and 2012-13 shall, for purposes of article 9 of this title, be deemed to have performed effectively during the same school year or years. Beginning with the 2013-14 school year, all teachers shall be evaluated in accordance with the new performance evaluation system that is based on measures of effectiveness; however, a school district may extend the probationary status of a teacher who has three consecutive satisfactory ratings as of July 1, 2013, by no more than one year.

(b) (I) A probationary teacher who is given a written notice of contract nonrenewal may request, and, if requested, shall receive, the reasons for nonrenewal from the chief administrative officer of the employing school district.

(II) It is the intent of the general assembly that the provision to a probationary teacher of the reasons for contract nonrenewal not create any property right or contract right, express or implied. However, a board may, but shall not be required to, agree by contract or school district policy to make the reasons for nonrenewal a grievable action. If a state



appellate court or a federal court determines that such a property right has been created and the time for all appeals has passed, this paragraph (b) shall be repealed. The court making such a determination shall be required to transmit a copy of the court's decision to the revisor of statutes. The effective date of the repeal of this paragraph (b) shall be the date the revisor of statutes receives notice from the court that such decision has been made and that the time for all appeals has passed.

(5) A probationary teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board pursuant to section 22-63-302.

(6) (a) Notwithstanding the provisions of section 24-72-204 (3) (a), C.R.S., upon a request from a school district or a school concerning a person applying for a position as a teacher, a school district may disclose to the requesting school district or school the reason or reasons why a teacher left employment with the original school district. The information disclosed pursuant to this paragraph (a) shall only be disclosed to personnel authorized to review the personnel file in the school district or school and to the person applying for a position as a teacher.

(b) No employment contract executed pursuant to this section shall contain a provision that restricts or prohibits a school district from disclosing to another school district or school the reason or reasons why a teacher left employment with the original school district.

**Source:** **L. 90:** Entire article R&RE, p. 1121, § 1, effective July 1. **L. 92:** (2)(a) amended, p. 475, § 8, effective April 29. **L. 93:** (3) amended, p. 901, § 2, effective May 11. **L. 95:** (3) amended, p. 884, § 6, effective July 1. **L. 97:** (3) amended, p. 399, § 2, effective August 15. **L. 99:** (2)(b)(II) amended, p. 139, § 1, effective July 1; (6) added, p. 1104, § 9, effective July 1. **L. 2010:** (1), (2)(b)(III), and (2)(b)(IV) amended and (4)(a.5) added, (SB 10-191), ch. 241, pp. 1073, 1074, §§ 13, 14, effective May 20.

**Editor's note:** (1) This section is similar to former § 22-63-110 as it existed prior to 1990.

(2) As of the date of publication, the performance evaluation system referred to in subsection (4)(a.5)(I) has not been implemented, which implementation will cause the repeal of subsection (4)(a.5).

(3) As of the date of publication, the revisor of statutes has not received the notice referred to in subsection (4)(b)(II), the receipt of which notice will cause the repeal of subsection (4)(b).

## ANNOTATION

### I. General Consideration.

#### II. Notice.

- A. In Writing.
- B. Timely.
- C. Methods of Service.
- D. Burden of Proof.

#### III. Liability.

### I. GENERAL CONSIDERATION.

**Annotator's note.** Since § 22-63-203 is similar to § 22-63-110 as it existed prior to the 1990 repeal and reenactment of this article, relevant cases construing that provision, as well as cases decided prior to the earliest source of this section, have been included in the annotations to this section.

**Purpose of section is to eliminate uncertainty.** On obvious purpose of the statute requiring written notice was elimination of uncertainty and possible controversy regarding the future status of a teacher and a school. *Wooten v. Byers Sch. Dist. No. 32J*, 156 Colo. 89, 396 P.2d 964 (1964); *Norwood v. Sch. Dist. RE-11J*, 44 Colo.

App. 40, 613 P.2d 343 (1980), *aff'd*, 644 P.2d 13 (Colo. 1982).

**Section held applicable to elementary teacher on probationary status.** *Colo. Civil Rights Comm'n v. State*, 30 Colo. App. 10, 488 P.2d 83 (1971).

**In order to effect nonrenewal**, a board of education need only give the teacher written notice on or before April 15th of the school year immediately preceding that for which renewal is in question. *Durango Sch. Dist. No. 9-R v. Thorpe*, 200 Colo. 268, 614 P.2d 880 (1980).

**No right to annual renewal.** A nontenured public school teacher does not have a right to annual renewal of his teaching contract. *Durango Sch. Dist. No. 9-R v. Thorpe*, 200 Colo. 268, 614 P.2d 880 (1980); *Bevsek v. Huerfano Sch. Dist. RE-1*, 728 P.2d 325 (Colo. App. 1986).

**"Deemed reemployed" is a mandatory provision** of this section and applies absent required written notice. If a teacher proves that she was employed on a full-time basis but not under continuous tenure, she is "deemed reemployed" unless the written notice is furnished as re-

quired. *Wooten v. Byers Sch. Dist. No. 32J, 156 Colo. 89, 396 P.2d 964 (1964).*

**Teacher is considered "deemed reemployed" for the year immediately following insufficient notice of termination, and the school board is obligated to compensate him or her for that year of employment, but relief is not available in the form of an additional year of employment if adequate timely, written notice was served prior to that additional year.** *Hanover Sch. Dist. No. 28 v. Barbour, 171 P.3d 223 (Colo. 2007).*

**No specification, proof, or reason for non-renewal is required.** *Durango Sch. Dist. No. 9-R v. Thorpe, 200 Colo. 268, 614 P.2d 880 (1980).*

**Nonrenewal may not be based on exercise of constitutional rights.** A board of education may not base its decision not to renew a teacher's contract on his or her exercise of constitutionally protected rights. *Durango Sch. Dist. No. 9-R v. Thorpe, 200 Colo. 268, 614 P.2d 880 (1980); Hadley v. Moffat County Sch. Dist. RE-1, 681 P.2d 938 (Colo. 1984).*

**Issues where nonrenewal purportedly based on exercise on constitutional rights.** Where a teacher who had not been renewed claimed the board's decision was based impermissibly on activities protected by the United States constitution, the jury was properly instructed that it was required to determine: (1) Whether constitutionally protected conduct on the teacher's part had been considered by the board when it decided not to renew his teaching contract; (2) whether such conduct, if considered by the board, had been a substantial or motivating factor in the nonrenewal decision; and (3) whether the board would have voted not to renew the contract even if it had not considered constitutionally protected conduct. *Durango Sch. Dist. No. 9-R v. Thorpe, 200 Colo. 268, 614 P.2d 880 (1980).*

## II. NOTICE.

### A. In Writing.

**Notice of termination of employment must be in writing.** Although a teacher may have been informed he would not be reemployed by board intimations or statements concerning his retirement, he was not so informed in writing as required by statute, as is mandatory, and, thus, he falls squarely within the protection of the statute and was automatically reemployed. *Robb v. Sch. Dist. No. RE 50(J), 28 Colo. App. 453, 475 P.2d 30 (1970).*

The written notice required of this section is not met by merely informing a teacher orally that she is not to be rehired. *Wooten v. Byers Sch. Dist. No. 32J, 156 Colo. 89, 396 P.2d 964 (1964).*

**All evidence of oral conversations with the superintendent and others is beyond the is-**

**sues when determining whether a teacher had proper notice of termination of employment.** *Wooten v. Byers Sch. Dist. No. 32J, 156 Colo. 89, 396 P.2d 964 (1964).*

### B. Timely.

**Notice to be valid must also be given within the time fixed by the statute.** *Wooten v. Byers Sch. Dist. No. 32J, 156 Colo. 89, 396 P.2d 964 (1964).*

The words "causes written ... to be given", as used in this section, mean that the notice must have been received by the teacher on or before April 15th of the academic year in question. *Norwood v. Sch. Dist. RE-11J, 44 Colo. App. 40, 613 P.2d 343 (1980), aff'd, 644 P.2d 13 (Colo. 1982).*

Written notice of nonrenewal of employment must be delivered to and received by the teacher on or before April 15 of the academic year during which the teacher is employed. *Sch. Dist. RE-11J v. Norwood, 644 P.2d 13 (Colo. 1982).*

**Else teacher deemed reemployed.** Where, on April 15th, a nontenured teacher had not received a letter of termination nor notice of its availability at the post office, she was deemed to have been reemployed for the next academic year. *Norwood v. Sch. Dist. RE-11J, 44 Colo. App. 40, 613 P.2d 343 (1980), aff'd, 644 P.2d 13 (Colo. 1982).*

Where no notice was sent to teacher that her contract would not be renewed by April 15th, teacher was deemed automatically reemployed for the next academic year and was therefore entitled to tenure upon the first day of performance of services on that fourth year. *Day v. Prowers County Sch. Dist. RE-1, 725 P.2d 14 (Colo. App. 1986).*

**The fact that a teacher by reason of his own absence fails to receive the letter before April 15 cannot defeat the giving of the notice.** *Ledbetter v. Sch. Dist. No. 8, 163 Colo. 127, 428 P.2d 912 (1967).*

**Timely delivery may be excused if teacher frustrates delivery by purposeful avoidance.** Timely delivery of the notice to the teacher may be justifiably excused when a teacher frustrates the delivery by purposeful avoidance thereof. *Sch. Dist. RE-11J v. Norwood, 644 P.2d 13 (Colo. 1982).*

**Letter of intent to terminate employment contract does not qualify as timely notice of termination.** The notice requirement of this section is satisfied only by timely, written notice of a formal decision to terminate an employment contract. A letter to probationary teacher of the board's intent to act at a later meeting is insufficient to fulfill notice requirement. Nor is informal notice through teacher's knowledge of formal public vote on his termination sufficient to fulfill the notice requirement. *Hanover Sch. Dist. No. 28 v. Barbour, 171 P.3d 223 (Colo. 2007).*



## C. Methods of Service.

**No particular method of giving notice is specified.** While the notice must be in writing, the method of getting the written notice of the teacher is not set out, because the general assembly did not intend any particular method. *Ledbetter v. Sch. Dist. No. 8*, 163 Colo. 127, 428 P.2d 912 (1967).

**Recognized methods may be used.** Although the means of giving notice is not set out in the statute, if the school district uses a method recognized as an acceptable one in the law, then the cases setting out the test to be applied to the particular method employed are persuasive. *Ledbetter v. Sch. Dist. No. 8*, 163 Colo. 127, 428 P.2d 912 (1967).

**Personal service or mail.** The notice could be personally handed to a teacher, mailed to him by ordinary mail, or sent by registered mail. *Ledbetter v. Sch. Dist. No. 8*, 163 Colo. 127, 428 P.2d 912 (1967).

## D. Burden of Proof.

**Board has burden of proof of timely written notice.** If the board, in fact, has served a timely written notice upon a teacher, it has the burden of thereafter coming forward with such evidence; until then the teacher is deemed to have been reemployed. *Wooten v. Byers Sch. Dist. No. 32J*, 156 Colo. 89, 396 P.2d 964 (1964).

**The general assembly did not intend to cast upon a teacher the burden of proof by ordinary methods that notice had been given.** *Wooten v. Byers Sch. Dist. No. 32J*, 156 Colo. 89, 396 P.2d 964 (1964).

**22-63-203.5. Nonprobationary portability.** Beginning with the 2014-15 school year, a nonprobationary teacher, except for a nonprobationary teacher who has had two consecutive performance evaluations with an ineffective rating, who is employed by a school district and is subsequently hired by a different school district may provide to the hiring school district evidence of his or her student academic growth data and performance evaluations for the prior two years for the purposes of retaining nonprobationary status. If, upon providing such data, the nonprobationary teacher can show two consecutive performance evaluations with effectiveness ratings in good standing, he or she shall be granted nonprobationary status in the hiring school district.

**Source: L. 2010:** Entire section added. (SB 10-191), ch. 241, p. 1075, § 15, effective May 20.

**22-63-204. Interest prohibited.** (1) It is unlawful for any teacher of a school district to take or receive any part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof of any book, musical instrument, school supplies, school apparatus, or other materials, including custodial, office, and athletic supplies, sold to a minor, or the parent or guardian of any such minor, enrolled in the school where such teacher is performing services, or which may be sold to said school district; but it shall not be unlawful for a teacher to receive a part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof if such teacher first obtains the written consent of the employing board.

## III. LIABILITY.

**Failure to satisfy requirements of this section may render board liable.** Where a teacher stands ready, willing, and able in every respect to abide by his valid and enforceable contract, but is prevented from doing so by the board of education when it refuses to honor the contract and hires a replacement without informing the teacher of termination of employment, the board is liable to him for damages. *Robb v. Sch. Dist. No. RE 50(J)*, 28 Colo. App. 453, 475 P.2d 30 (1970).

**Proper measure of damages.** In the face of uncontroverted evidence that a teacher mitigated his damages, and in the face of a total lack of evidence that he could mitigate them any further, the proper measure of damages is the difference between his contract salary and his earnings in mitigation, where the teacher was not given notice of termination of employment as required by this section. *Robb v. Sch. Dist. No. RE 50(J)*, 28 Colo. App. 453, 475 P.2d 30 (1970).

**Teacher is considered "deemed reemployed" for the year immediately following insufficient notice of termination, and the school board is obligated to compensate him or her for that year of employment, but relief is not available in the form of an additional year of employment if adequate timely, written notice was served prior to that additional year.** *Hanover Sch. Dist. No. 28 v. Barbour*, 171 P.3d 223 (Colo. 2007).

**A teacher who is "deemed reemployed" under subsection (3) has no obligation to mitigate the compensation owed him or her by the school district.** *Hanover Sch. Dist. No. 28 v. Barbour*, 171 P.3d 223 (Colo. 2007).

(2) Any teacher who violates the provisions of subsection (1) of this section is, upon determination thereof, subject to the revocation of the teacher's license or authorization as provided in section 22-60.5-108.

**Source:** L. 90: Entire article R&RE, p. 1122, § 1, effective July 1. L. 2000: (2) amended, p. 1860, § 69, effective August 2.

**Editor's note:** This section is similar to former § 22-63-108 as it existed prior to 1990.

**22-63-205. Exchange of teachers - exchange educator interim authorization.**

(1) The board of a school district has authority to provide for the exchange of teachers with a school district in this state or in another state or with a foreign government or agency thereof. The department of education and boards are authorized and urged to effect such exchanges to achieve the goal of equal educational opportunity within Colorado, and they are further authorized to cooperate with appropriate federal agencies involved in such exchange programs. The department of education shall create an exchange educator interim authorization for qualified exchange educators pursuant to section 22-60.5-111.

(2) The salary of the teacher exchanged may be paid by the school district which authorized the exchange and, if so, said teacher shall be paid at not less than the rate to which he would otherwise be entitled had he performed services in said school district. A teacher exchanged pursuant to this section shall be deemed, during the period of exchange, to be in the employ of the school district which authorized the exchange, and such teacher shall be subject to the provisions and benefits of retirement, insurance, and workers' compensation as if performing services within said school district.

**Source:** L. 90: Entire article R&RE, p. 1122, § 1, effective July 1. L. 2008: (1) amended, p. 1365, § 3, effective May 27.

**Editor's note:** (1) This section is similar to former § 22-63-109 as it existed prior to 1990.

(2) Subsection (2) was originally numbered as section 22-63-109 (2), and the amendments to it in House Bill 90-1160 were harmonized with subsection (2) as it appears in this section when the entire article was repealed and reenacted in House Bill 90-1159.

## ANNOTATION

**District cannot preclude right to tenure by transfer.** The "Teacher Employment, Dismissal, and Tenure Act of 1967" has no statutory authority empowering a school district to transfer a teacher's teaching contract to another

school district in order to truncate her statutory rights to tenure. *Day v. Prowers County Sch. Dist.* RE-1, 725 P.2d 14 (Colo. App. 1986) (decided under § 22-63-109 as it existed prior to the 1990 repeal and reenactment of this article).

**22-63-206. Transfer - compensation.** (1) A teacher may be transferred upon the recommendation of the chief administrative officer of a school district from one school, position, or grade level to another within the school district, if such transfer does not result in the assignment of the teacher to a position of employment for which he or she is not qualified by virtue of academic preparation and certification and if, during the then current school year, the amount of salary of such teacher is not reduced except as otherwise provided in subsections (2) and (3) of this section. There shall be no discrimination shown toward any teacher in the assignment or transfer of that teacher to a school, position, or grade because of sex, sexual orientation, marital status, race, creed, color, religion, national origin, ancestry, or membership or nonmembership in any group or organization.

(2) Notwithstanding the provisions of subsection (1) of this section, a teacher who has been occupying an administrative position may be assigned to another position for which he or she is qualified if a vacancy exists in such position, and, if so assigned, with a salary corresponding to the position. If the school district has adopted a general salary schedule or a combination salary schedule and policy, the board may consider the years of service



accumulated while the teacher was occupying the administrative position when the board determines where to place the teacher on the schedule for the assigned position.

(3) Notwithstanding the provisions of subsection (1) of this section, the salary of a teacher who has received additional compensation for the performance of additional duties may be reduced if said teacher has been relieved of such additional duties.

(4) A teacher may enter into an agreement for an economic work-learn program leave of absence with a board of education that shall not affect the teacher's employment status, position on the salary schedule if the school district has adopted a general salary schedule or combination salary schedule and policy, or insurance and retirement benefits.

(5) Nothing in this section shall be construed as requiring a receiving school to involuntarily accept the transfer of a teacher. All transfers to positions at other schools of the school district shall require the consent of the receiving school.

**Source:** L. 90: Entire article R&RE, p. 1123, § 1, effective July 1. L. 95: (2) and (4) amended, p. 884, § 7, effective July 1. L. 2004: (2) amended, p. 56, § 1, effective August 4. L. 2008: (1) amended, p. 1602, § 26, effective May 29. L. 2010: (5) added, (SB 10-191), ch. 241, p. 1075, § 17, effective May 20.

**Editor's note:** This section is similar to former § 22-63-114 as it existed prior to 1990.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 341, Session Laws of Colorado 2008.

## ANNOTATION

**Annotator's note.** Since § 22-63-206 is similar to § 22-63-114 as it existed prior to the 1990 repeal and reenactment of this article, relevant cases construing that provision, as well as cases decided prior to the earliest source of this section, have been included in the annotations to this section.

**The purpose of the statute is to prevent teachers from being transferred:** (1) To teaching positions for which they are not qualified; (2) for reductions in pay; and (3) as acts of discrimination. *Lazuk v. Denver County Sch. Dist. No. 1*, 22 P.3d 548 (Colo. App. 2000).

**Power of boards of education to transfer teachers limited only by statute.** The power of school boards to control the hiring and firing and transfers of teachers in their district is limited only by the express terms of the statutes. *Draper v. Sch. Dist. No. 1*, 175 Colo. 216, 486 P.2d 1048 (1971).

**The power to transfer teachers cannot be delegated.** Board cannot delegate power of deciding whether or not teacher is to be transferred, but board can delegate resulting administrative details such as building and room assignment consistent with position for which teacher is qualified. *Frank v. Arapahoe County Sch. Dist. No. 6*, 31 Colo. App. 479, 506 P.2d 373 (1972); *Wheeler v. Sch. Dist. No. 20*, 33 Colo. App. 233, 521 P.2d 178 (1973), *aff'd*, 188 Colo. 262, 535 P.2d 206 (1975).

**The school board may delegate the power to transfer a teacher** because such function is administrative in nature, as it does not function as a policy-making duty, and the discretion granted is limited by statute. *Lazuk v. Denver*

*County Sch. Dist. No. 1*, 22 P.3d 548 (Colo. App. 2000).

**Discretion granted to superintendent by this section was not overly broad**, but was merely administrative in nature. *Wheeler v. Sch. Dist. No. 20*, 188 Colo. 262, 535 P.2d 206 (1975).

**Authority to reassign principal of junior high school was not improperly delegated** to the superintendent of schools. *Wheeler v. Sch. Dist. No. 20*, 188 Colo. 262, 535 P.2d 206 (1975).

**There can be no demotion when individual is transferred between coequal positions.** *Frank v. Arapahoe County Sch. Dist. No. 6*, 31 Colo. App. 479, 506 P.2d 373 (1972).

**A transfer cannot reduce a teacher's salary.** The right to transfer a teacher is limited by the provision that such transfer shall not change the position to which such teacher is entitled on the regular teacher salary schedule of the employing district. *Sch. Dist. No. 2 v. Brenton*, 137 Colo. 247, 323 P.2d 899 (1958).

**Even though a district can and does assign a teacher to work other than teaching**, it cannot thereby reduce his annual salary; it has to pay him according to its adopted teacher schedules. *Maxey v. Jefferson County Sch. Dist. No. R-1*, 158 Colo. 583, 408 P.2d 970 (1965).

**There is no right to hearing upon transfer to a similar position.** Tenured public school employee transferred from one similar position to another is not entitled to hearing before board and denial of request for such hearing is not violation of statutory or constitutional rights. *Frank v. Arapahoe County Sch. Dist. No. 6*, 31 Colo. App. 479, 506 P.2d 373 (1972).

**Notice and hearing not required.** Petitioner was not entitled to notice and a hearing before he was relieved of his position as principal of the junior high school and reassigned, and thus there was no due process infringement. *Wheeler v. Sch. Dist. No. 20, 188 Colo. 262, 535 P.2d 206 (1975).*

**School district can transfer tenured public school employee from position of counselor to that of classroom teacher without formal action** of board specifically designating employee's new assignment. *Frank v. Arapahoe County Sch. Dist. No. 6, 31 Colo. App. 479, 506 P.2d 373 (1972).*

**Standard of review of transfer is less strict than for dismissal or denial of employment.** Where tenured public school employee loses his job or is denied a job due to questionable school board action, there is a stricter standard of review applicable than where employee is transferred from one similar position to another. *Frank v. Arapahoe County Sch. Dist. No. 6, 31 Colo. App. 479, 506 P.2d 373 (1972).*

**Employee, as counselor, held to be teacher, not administrator or executive, for transfer purposes.** *Frank v. Arapahoe County Sch. Dist. No. 6, 31 Colo. App. 479, 506 P.2d 373 (1972).*

**Finding that teacher is unsatisfactory in his administrative position is not prerequisite to transfer** under this section. *Wheeler v. Sch. Dist. No. 20, 33 Colo. App. 233, 521 P.2d 178 (1973), aff'd, 188 Colo. 262, 535 P.2d 206 (1975).*

**For prior requirement that a teacher holding an executive position be "deemed unsatisfactory" before being returned to classroom,** see *Sch. Dist. No. 2 v. Brenton, 137 Colo. 247, 323 P.2d 899 (1958); Robb v. Sch. Dist. No. RE 50(J), 28 Colo. App. 453, 475 P.2d 30 (1970); Draper v. Sch. Dist. No. 1, 175 Colo. 216, 486 P.2d 1048 (1971).*

**Applied** in *Marsh v. St. Vrain Valley Sch. Dist. RE-1J, 644 P.2d 41 (Colo. App. 1981).*

## PART 3

### DISMISSAL

**22-63-301. Grounds for dismissal.** A teacher may be dismissed for physical or mental disability, incompetency, neglect of duty, immorality, unsatisfactory performance, insubordination, the conviction of a felony or the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence for a felony, or other good and just cause. No teacher shall be dismissed for temporary illness, leave of absence previously approved by the board, or military leave of absence pursuant to article 3 of title 28, C.R.S.

**Source: L. 90:** Entire article R&RE, p. 1123, § 1, effective July 1; entire section amended, p. 1032, § 22, effective July 1.

**Editor's note:** This section is similar to former § 22-63-116 as it existed prior to 1990.

### ANNOTATION

- I. General Consideration.
- II. Purpose of Section.
- III. Reasons for Dismissal.
  - A. Generally.
  - B. Incompetency.
  - C. Neglect of Duty.
  - D. Immorality.
  - E. Insubordination.
  - F. Other Good and Just Cause.

#### I. GENERAL CONSIDERATION.

**Annotator's note.** Since § 22-63-301 is similar to § 22-63-116 as it existed prior to the 1990 repeal and reenactment of this article in 1990, cases construing that provision, as well as cases decided under provisions similar thereto, have been included in the annotations to this section.

**This section may be sustained as constitutional.** *Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).*

This section conforms to constitutional requirements. It is directed to conduct toward members of the school community, and is concerned with immoral acts only insofar as they relate to the teacher's unfitness to teach. *Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).*

**This section is sufficiently precise to meet minimal due process standards.** *Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).*

This section is constitutionally adequate, and the terms "incompetence" and "neglect of duty" are sufficiently precise that men of common intelligence would not have to guess at



their meaning. *Benke v. Neenan*, 658 P.2d 860 (Colo. 1983).

**Applied** in *Blair v. Lovett*, 196 Colo. 118, 582 P.2d 668 (1978).

## II. PURPOSE OF SECTION.

**State's interest in protecting school community.** The board's power to dismiss and discipline teachers exists and finds its justification in the state's legitimate interest in protecting the school community from harm, and its exercise can only be justified upon a showing that such harm has occurred or is likely to occur. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**The board's power to dismiss and discipline teachers is not merely punitive** in nature and is not intended to permit the exercise of personal moral judgments by board members. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Private shortcomings not intended.** The general assembly did not intend to potentially subject every teacher to discipline, even dismissal, for private peccadillos or personal shortcomings that might come to the attention of the board of education, but yet had little or no relation to the teacher's relationship with his students, his fellow teachers, or with the school community. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

## III. REASONS FOR DISMISSAL.

### A. Generally.

**One of the grounds of this section must be charged before dismissal of tenured teacher.** Where this section limits the grounds of cancellation of a teacher's contract to (1) incompetency, (2) neglect of duty, (3) immorality, (4) insubordination, (5) justifiable decrease in the number of teacher positions, and (6) other just and good cause, and no such charge is made against a teacher, a school district is without authority to cancel his contract. *Sch. Dist. No. 2 v. Brenton*, 137 Colo. 247, 323 P.2d 899 (1958) (decided prior to earliest source of this section, § 123-18-16, as amended).

**School boards to define dismissal grounds.** Because elected school boards have the responsibility of implementing and carrying out the educational programs of their respective communities, they must have the case-by-case authority to define the limits of such broad general grounds for dismissal as "incompetency" and "immorality" in the educational context. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

And, for the same reasons, school boards must have the case-by-case authority to define the limits of the ground of dismissal of "neglect of duty" in the educational context. *Blaine v.*

*Moffat County Sch. Dist. Re. No. 1*, 709 P.2d 96 (Colo. App. 1985).

**Prior warnings and failure to conform thereto may properly be considered** by the board as evidence of incompetency, insubordination, or other statutory grounds for dismissal found in this section. *DeKoevend v. Bd. of Educ.*, 653 P.2d 743 (Colo. App. 1982), rev'd on other grounds, 688 P.2d 219 (Colo. 1984).

**Adverse impact required.** The board of education may properly dismiss those teachers whose misbehavior has had the requisite degree of adverse impact. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Isolated technical and trivial violations of school board policies and directives** could not support dismissal of a tenured teacher. *Robertson v. Bd. of Educ.*, 39 Colo. App. 462, 570 P.2d 19 (1977).

### B. Incompetency.

**Competence** indicates the ability to perform ably and above a minimum level of sufficiency. Therefore, incompetence indicates the inability to perform. *Benke v. Neenan*, 658 P.2d 860 (Colo. 1983).

### C. Neglect of Duty.

**Duty** indicates those actions required by one's particular occupation. *Benke v. Neenan*, 658 P.2d 860 (Colo. 1983).

**Dismissal for neglect of duty was not arbitrary or capricious** where teacher's duties included disciplining students in a manner consistent with district policy and providing a safe and secure learning environment, and teacher struck a student on the head with a pointer. *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

Where a teacher violated the district's controversial materials policy by failing to provide the principal with the required notice prior to using a controversial learning resource displaying sexual content, violence, and nudity, his dismissal was proper and did not violate his rights of free speech and due process guaranteed by the constitution. *Bd. of Educ. of Jefferson County v. Wilder*, 960 P.2d 695 (Colo. 1998).

**School board did not err by dismissing teacher for neglect of duty** where teacher refused to teach the adopted math curriculum. Hearing officer determined that the teacher's students did not receive complete and proper instruction in mathematics and that teacher failed to fulfill her classroom duties and obligations. *Sch. Dist. No. 1 v. Cornish*, 58 P.3d 1091 (Colo. App. 2002).

### D. Immorality.

**This section's reference to "immorality" is not unduly vague** and constitutes a valid

ground for dismissal. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**“Immorality” standard.** The statutory term “immorality” denotes only conduct which indicates a teacher’s “unfitness to teach” — i.e., only conduct which harmed or is likely to harm the school community. However, in view of the variousness of human behavior, it would be folly to suggest that “immorality rendering one unfit to teach” is a standard so clear as to leave no leeway in determining whether the facts of a particular case meet that standard. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

A school board’s application of the standard to a specific instance of teacher conduct will therefore be sustained by a reviewing court if it is warranted in the record and has a reasonable basis in law. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

**“Immorality” implicitly required to be related to work.** Though this section does not explicitly require that the “immorality” be in relation to, or affect, the teacher’s work, such a requirement can be readily implied from the language of the statute. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**“Immorality” must be related to teacher’s fitness for service.** The statutory ground of immorality, taken in conjunction with the other grounds of physical and mental disability, incompetency, neglect of duty, conviction of a felony, and insubordination, clearly implies a standard that is directly related to the teacher’s fitness for service. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

Appellant’s actions cannot constitute immorality within the meaning of the statute unless these actions indicate his unfitness to teach. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Considerations in determination of unfitness.** In determining whether the teacher’s conduct indicates an unfitness to teach, the board of education may properly consider such matters as the age and maturity of the teacher’s students, the likelihood that his conduct may have adversely affected students and other teachers, the degree of such adversity, the proximity or remoteness in time of the conduct, the extenuating or aggravating circumstances surrounding the conduct, the likelihood that the conduct may be repeated, the motives underlying it, and the extent to which discipline may have a chilling effect upon either the rights of the teacher involved or other teachers. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Most persons of ordinary intelligence would have noticed, even from the broad wording of this section, that certain acts are prohibited,** including inter alia the intimate touching of minor female students by a male

high school teacher. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Whenever a male teacher engages in sexually provocative or exploitive conduct with his minor female students a strong presumption of unfitness arises** against the teacher. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976); *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

#### E. Insubordination.

**Insubordination** should be given its commonly-understood definition of a willful failure or refusal to obey reasonable orders of a superior who is entitled to give such orders. *Ware v. Morgan County Sch. Dist.* RE-3, 719 P.2d 351 (Colo. App. 1985); *Lockhart v. Arapahoe County Sch. Dist.* No. 6, 735 P.2d 913 (Colo. App. 1986).

Where there is evidence that petitioner willfully refused to participate at any time in hall supervision duties when ordered to do so by this principal and where in the interest in maintaining discipline and order in public schools such order was reasonable, the board correctly found that petitioner was insubordinate. *Lockhart v. Arapahoe County Sch. Dist.* No. 6, 735 P.2d 913 (Colo. App. 1986).

**Dismissal for insubordination not arbitrary, capricious, or legally impermissible** where teacher effectively failed to submit lesson plans pursuant to principal’s reasonable request. *Sch. Dist. No. 1 v. Cornish*, 58 P.3d 1091 (Colo. App. 2002).

#### F. Other Good and Just Cause.

**Insubordination does not require a showing that a teacher specifically intended to violate the directions of superiors.** Proof of insubordination merely requires intentional conduct. *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

**Dismissal for “other good and just cause” was not arbitrary or capricious** where teacher exhibited a low frustration tolerance with certain primary age students. Because this resulted in an adverse affect on the teacher’s students, it bore a reasonable relationship to the teacher’s overall fitness to discharge her duties. *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

**School board did not err when it dismissed teacher for “other good and just cause”** where hearing officer found that teacher knowingly allowed her license to lapse and failed to notify the school administration of that lapse. *Sch. Dist. No. 1 v. Cornish*, 58 P.3d 1091 (Colo. App. 2002).



**22-63-302. Procedure for dismissal - judicial review.** (1) Except as otherwise provided in subsection (11) of this section, a teacher shall be dismissed in the manner prescribed by subsections (2) to (10) of this section.

(2) The chief administrative officer of the employing school district may recommend that the board dismiss a teacher based upon one or more of the grounds stated in section 22-63-301. If such a recommendation is made to the board, the chief administrative officer, within three days after the board meeting at which the recommendation is made, shall mail a written notice of intent to dismiss to the teacher. The notice of intent to dismiss shall include a copy of the reasons for dismissal, a copy of this article, and all exhibits which the chief administrative officer intends to submit in support of his or her prima facie case against the teacher including a list of witnesses to be called by the chief administrative officer, addresses and telephone numbers of the witnesses, and all pertinent documentation in the possession of the chief administrative officer relative to the circumstances surrounding the charges. Additional witnesses and exhibits in support of the chief administrative officer's prima facie case may be added as provided in subsection (6) of this section. The notice and copy of the charges shall be sent by certified mail to said teacher at his or her address last known to the secretary of the board. The notice shall advise the teacher of his or her rights and the procedures under this section.

(3) If a teacher objects to the grounds given for the dismissal, the teacher may file with the chief administrative officer a written notice of objection and a request for a hearing. Such written notice shall be filed within five working days after receipt by the teacher of the notice of dismissal. If the teacher fails to file the written notice within said time, such failure shall be deemed to be a waiver of the right to a hearing and the dismissal shall be final; except that the board of education may grant a hearing upon a determination that the failure to file written notice for a hearing was due to good cause. If the teacher files a written notice of objection, the teacher shall continue to receive regular compensation from the time the board received the dismissal recommendation from the chief administrative officer pursuant to subsection (2) of this section until the board acts on the hearing officer's recommendation pursuant to subsection (9) of this section, but in no event beyond one hundred days; except that the teacher shall not receive regular compensation upon being charged criminally with an offense for which a license, certificate, endorsement, or authorization is required to be denied, annulled, suspended, or revoked due to a conviction, pursuant to section 22-60.5-107 (2.5) or (2.6). If the final disposition of the case does not result in a conviction and the teacher has not been dismissed pursuant to the provisions of this section, the board shall reinstate the teacher, effective as of the date of the final disposition of the case. Within ten days after the reinstatement, the board shall provide the teacher with back pay and lost benefits and shall restore lost service credit.

(4) (a) If the teacher requests a hearing, it shall be conducted before an impartial hearing officer selected jointly by the teacher and the chief administrative officer. The hearing officer shall be selected no later than five working days following the receipt by the chief administrative officer of the teacher's written notice of objection. If the teacher and the chief administrative officer fail to agree on the selection of a hearing officer, they shall request assignment of an administrative law judge by the department of personnel to act as the hearing officer.

(b) Hearing officers shall be impartial individuals with experience in the conducting of hearings and with experience in labor or employment matters.

(c) Expenses of the hearing officer shall be paid from funds of the school district.

(5) (a) Within three working days after selection, the hearing officer shall set the date of the prehearing conference and the date of the hearing, which shall commence within the following thirty days. The hearing officer shall give the teacher and the chief administrative officer written notice of the dates for the prehearing conference and for the hearing including the time and the place therefor.

(b) One of the purposes of the prehearing conference shall be to limit, to the extent possible, the amount of evidence to be presented at the hearing.

(c) The parties and their counsel shall be required to attend the prehearing conference with the hearing officer.

(6) (a) Within ten days after selection of the hearing officer, the teacher shall provide to the chief administrative officer a copy of all exhibits to be presented at the hearing and a list of all witnesses to be called, including the addresses and telephone numbers of the witnesses. Within seven days after the teacher submits his or her exhibits and witness list, the chief administrative officer and the teacher may supplement their exhibits and witness lists. After completion of the seven-day period, additional witnesses and exhibits may not be added except upon a showing of good cause.

(b) Neither party shall be allowed to take depositions of the other party's witnesses or to submit interrogatories to the other party. The affidavit of a witness may be introduced into evidence if such witness is unavailable at the time of the hearing.

(7) (a) Hearings held pursuant to this section shall be open to the public unless either the teacher or the chief administrative officer requests a private hearing before the hearing officer, but no findings of fact or recommendations shall be adopted by the hearing officer in any private hearing. The procedures for the conduct of the hearing shall be informal, and rules of evidence shall not be strictly applied except as necessitated in the opinion of the hearing officer; except that the hearing officer shall comply with the Colorado rules of evidence in excluding hearsay testimony.

(b) The hearing officer may receive or reject evidence and testimony, administer oaths, and, if necessary, subpoena witnesses.

(c) At any hearing, the teacher has the right to appear in person with or without counsel, to be heard and to present testimony of witnesses and all evidence bearing upon his proposed dismissal, and to cross-examine witnesses. By entering an appearance on behalf of the teacher or the chief administrative officer, counsel agrees to be prepared to commence the hearing within the time limitations of this section and to proceed expeditiously once the hearing has begun. All school district records pertaining to the teacher shall be made available for the use of the hearing officer or the teacher.

(d) An audiotaped record shall be made of the hearing, and, if the teacher files an action for review pursuant to the provisions of subsection (10) of this section, the teacher and the school district shall share equally in the cost of transcribing the record; except that, if a party is awarded attorney fees and costs pursuant to paragraph (e) of subsection (10) of this section, that party shall be reimbursed for that party's share of the transcript costs by the party against whom attorney fees and costs were awarded.

(e) Any hearing held pursuant to the provisions of this section shall be completed within six working days after commencement, unless extended by the hearing officer on a showing of good cause, and neither party shall have more than three days to present its case in chief. Neither party may present more than ten witnesses at the hearing, except upon a showing of good cause.

(8) The chief administrative officer shall have the burden of proving that the recommendation for the dismissal of the teacher was for the reasons given in the notice of dismissal and that the dismissal was made in accordance with the provisions of this article. Where unsatisfactory performance is a ground for dismissal, the chief administrative officer shall establish that the teacher had been evaluated pursuant to the written system to evaluate licensed personnel adopted by the school district pursuant to section 22-9-106. The hearing officer shall review the evidence and testimony and make written findings of fact thereon. The hearing officer shall make only one of the two following recommendations: The teacher be dismissed or the teacher be retained. A recommendation to retain a teacher shall not include any conditions on retention. The findings of fact and the recommendation shall be issued by the hearing officer not later than twenty days after the conclusion of the hearing and shall be forwarded to said teacher and to the board.

(9) The board shall review the hearing officer's findings of fact and recommendation, and it shall enter its written order within twenty days after the date of the hearing officer's findings and recommendation. The board shall take one of the three following actions: The teacher be dismissed; the teacher be retained; or the teacher be placed on a one-year probation; but, if the board dismisses the teacher over the hearing officer's recommendation of retention, the board shall make a conclusion, giving its reasons therefor, which must be supported by the hearing officer's findings of fact, and such conclusion and reasons shall be



included in its written order. The secretary of the board shall cause a copy of said order to be given immediately to the teacher and a copy to be entered into the teacher's local file.

(10) (a) If the board dismisses the teacher pursuant to the provisions of subsection (9) of this section, the teacher may file an action for review in the court of appeals in accordance with the provisions of this subsection (10), in which action the board shall be made the party defendant. Such action for review shall be heard in an expedited manner and shall be given precedence over all other civil cases, except cases arising under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., and cases arising under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S.

(b) An action for review shall be commenced by the service of a copy of the petition upon the board of the school district and filing the same with the court of appeals within twenty days after the written order of dismissal made by the board. The petition shall state the grounds upon which the review is sought. After the filing of the action for review in the court of appeals, such action shall be conducted in the manner prescribed by rule 3.1 of the Colorado appellate rules.

(c) The action for review shall be based upon the record before the hearing officer. The court of appeals shall review such record to determine whether the action of the board was arbitrary or capricious or was legally impermissible.

(d) In the action for review, if the court of appeals finds a substantial irregularity or error made during the hearing before the hearing officer, the court may remand the case for further hearing.

(e) Upon request of the teacher, if the teacher is ordered reinstated by the court of appeals, or upon request of the board, if the board's decision to dismiss the teacher is affirmed by the court of appeals, the court of appeals shall determine whether the nonprevailing party's appeal or defense on appeal lacked substantial justification. If the court of appeals determines that the nonprevailing party's appeal or defense on appeal lacked substantial justification, the court of appeals shall determine the amount of and enter a judgment against the nonprevailing party for reasonable attorney fees and costs incurred on appeal to the court of appeals. Any judgment entered pursuant to this paragraph (e) may be subject to stay as provided in rule 41.1 of the Colorado appellate rules.

(f) Further appeal to the supreme court from a determination of the court of appeals may be made only upon a writ of certiorari issued in the discretion of the supreme court. Upon request of the teacher, if the teacher is ordered reinstated by the supreme court, or upon motion of the board, if the board's decision to dismiss is affirmed by the supreme court, the supreme court shall determine whether the nonprevailing party's appeal or defense on appeal to the supreme court lacked substantial justification. If the supreme court determines that the nonprevailing party's appeal or defense on appeal to the supreme court lacked substantial justification, the court shall determine the amount of and enter a judgment against the nonprevailing party for reasonable attorney fees and costs incurred on appeal to the supreme court. Any judgment entered pursuant to this paragraph (f) may be subject to stay as provided in rule 41.1 of the Colorado appellate rules.

(11) (a) The board of a school district may take immediate action to dismiss a teacher, without a hearing, notwithstanding subsections (2) to (10) of this section, pending the final outcome of judicial review or when the time for seeking review has elapsed, when the teacher is convicted, pleads nolo contendere, or receives a deferred sentence for:

(I) A violation of any law of this state or any counterpart municipal law of this state involving unlawful behavior pursuant to any of the following statutory provisions: Sections 18-3-305, 18-6-302, and 18-6-701, C.R.S., or section 18-6-301, C.R.S., or part 4 of article 3, part 4 of article 6, and part 4 of article 7 of title 18, C.R.S.; or

(II) A violation of any law of this state, any municipality of this state, or the United States involving the illegal sale of controlled substances, as defined in section 18-18-102 (5), C.R.S.

(b) A certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence shall be conclusive evidence for the purposes of this subsection (11).

**Source: L. 90:** Entire article R&RE, p. 1123, § 1, effective July 1; IP(11)(a), (11)(a)(I), and (11)(b) amended, p. 1032, § 23, effective July 1. **L. 98:** (2), (3), (4)(a), (5), (6)(a),

(7)(a), (7)(d), (7)(e), (8), (9), and (10) amended, p. 297, § 1, effective July 1. **L. 2000:** (8) amended, p. 1860, § 70, effective August 2. **L. 2003:** (11)(a)(I) amended, p. 2521, § 10, effective June 5. **L. 2004:** (3) amended, p. 433, § 1, effective April 13. **L. 2011:** (3) amended, (HB 11-1121), ch. 242, p. 1060, § 8, effective August 10. **L. 2012:** (11)(a)(II) amended, (HB 12-1311), ch. 281, p. 1626, § 67, effective July 1.

**Editor's note:** This section is similar to former § 22-63-117 as it existed prior to 1990.

**Cross references:** In 2011, subsection (3) was amended by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

## ANNOTATION

- I. General Consideration.
- II. Dismissal Procedures.
  - A. Preliminary Procedures.
  - B. Presiding Officer at Hearing.
  - C. Board of Education.
  - D. Noncompliance.
  - E. Dismissal.
- III. Judicial Review.
- IV. Remedies for Wrongful Dismissal.

### I. GENERAL CONSIDERATION.

**Law reviews.** For note, "The Right of Teachers Employed in the Colorado Public School System to Notice and Hearing Before Dismissal", see 31 *Dicta* 341 (1954). For comment on the application of res judicata to agencies with parallel jurisdiction in light of *Umberfield v. Sch. Dist. 11*, see 52 *Den. L.J.* 595 (1975).

**Annotator's note.** Since § 22-63-302 is similar to § 22-63-117 as it existed prior to the 1990 repeal and reenactment of this article, cases construing that provision, as well as cases decided under provisions similar thereto, have been included in the annotations to this section.

**Purpose of section.** The language of this section, and its history as well, indicates the clear purpose of the general assembly to throw certain safeguards around a teacher of the requisite years of service. The tenure assurances of the legislation were not conceived to prevent assaults from private sources, for no power to hurt is lodged there, but to map out a course of procedure for a school board when addressing itself to charges, whencesoever emanating, against a teacher. *Roe v. Hanington*, 97 Colo. 113, 47 P.2d 403 (1935).

**Teacher tenure act sets up procedural scheme for dismissal of tenured teachers.** It provides for a full adversary hearing wherein a teacher, after notice of the charges against him, is given the opportunity to challenge those charges. The teacher has the right to counsel, to present all evidence bearing on the reasons for the proposed dismissal, the right to cross-examine witnesses, and the right to discover and put in evidence any school district records. *Umberfield v. Sch. Dist. No. 11*, 185 Colo. 165, 522 P.2d 730 (1974).

The proceedings under the teacher tenure act and subsequent judicial review give a tenured teacher contesting his dismissal an opportunity to raise all defenses, judicial, statutory, or constitutional, available to him, before a panel with plenary power to consider and accept or reject such claims. *Umberfield v. Sch. Dist. No. 11*, 185 Colo. 165, 522 P.2d 730 (1974).

**Teacher tenure act does not create any additional substantive rights of academic freedom** but merely establishes procedural protections of such rights already implicit in the constitution. *Lockhart v. Arapahoe County Sch. Dist. No. 6*, 735 P.2d 913 (Colo. App. 1986).

**Procedures prescribed by the teacher tenure act afford a tenured teacher due process of law.** *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

**This section applies only to dismissals**, not to nonrenewals of contracts due to decreased enrollment. *Howell v. Woodlin Sch. Dist. R-104*, 198 Colo. 40, 596 P.2d 56 (1979).

**Board vested with power to terminate school district personnel.** The power to terminate the employment of school district personnel is expressly vested in each school district's board of education. *Blair v. Lovett*, 196 Colo. 118, 582 P.2d 668 (1978).

**Dismissal of tenure teachers must be for reasons and by procedures specified.** Teachers who acquire tenure are guaranteed by law that they cannot be dismissed from their positions as teachers except for certain reasons and in accordance with a statutory provision for notice and hearings. *Draper v. Sch. Dist. No. 1*, 175 Colo. 216, 486 P.2d 1048 (1971).

**However much a teacher may have offended**, he can only be dismissed in the manner provided by law. *Sch. Dist. No. 1 v. Parker*, 82 Colo. 385, 260 P. 521 (1927).

**This section provides for notice and hearing** prior to the summary discharge of a teacher. *Boatright v. Sch. Dist. No. 6*, 160 Colo. 163, 415 P.2d 340 (1966).

**A teacher under permanent tenure can be dismissed only after the formal hearing** set forth in this section. *Sch. Dist. No. 1 v. Parker*, 82 Colo. 385, 260 P. 521 (1927); *Sch. Dist. No. 1 v. Thompson*, 121 Colo. 275, 214 P.2d 1020 (1950).



Nowhere does this section say that a teacher's right to a hearing is conditioned upon his ability to pay for it. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

Court was in error in holding that appellant was required to pay any of the costs associated with the dismissal hearing. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Cost for recording evidence.** The only reference to costs contained in this section is to the effect that costs for recording the evidence adduced at the hearing shall be borne by the school district. *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**The general assembly did not intend to penalize teachers who exercise their statutory—indeed their constitutional—right to a hearing.** *Weissman v. Bd. of Educ.*, 190 Colo. 414, 547 P.2d 1267 (1976).

**Injunction does not lie to restrain a school board from discharging a teacher.** *Sch. Dist. No. 1 v. Carson*, 9 Colo. App. 6, 46 P. 846 (1896).

**Mere acceptance for review of charges against teacher is not policy decision** under statute forbidding board's making of policy decisions in executive session. *Dugan v. Bollman*, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**Proceedings constitute adequate remedy at law.** The proceedings under the teacher tenure act and subsequent judicial review give a tenured teacher contesting his dismissal an opportunity to raise all defenses, judicial, statutory, or constitutional available to him, before a panel with plenary power to consider and accept or reject such claims, and therefore provide an adequate remedy at law which precludes equitable relief. *Frankmore v. Bd. of Educ.*, 41 Colo. App. 416, 589 P.2d 1375 (1978).

**When res judicata operates as bar to relitigation.** Where a teacher had a full adversary hearing before the teacher tenure panel, which had the power to determine all his claims of religious discrimination, the doctrine of res judicata operates as a bar to the relitigation of issues which the teacher raised or could have raised in the hearing before that panel and on judicial review. To hold otherwise could result in an anomalous situation where the same reviewing court would be compelled to affirm opposite results of the two administrative bodies. *Umberfield v. Sch. Dist. No. 11*, 185 Colo. 165, 522 P.2d 730 (1974).

**Collateral estoppel precludes relitigation of the grounds for terminating a tenured teacher** in a hearing for unemployment compensation benefits where a board of education votes to terminate a teacher after a full administrative hearing and finding of facts, even though the board's action is still subject to review. *Jefferson County Sch. Dist. v. Indus. Comm'n*, 698 P.2d 1350 (Colo. App. 1984).

Although this section grants a great deal of discretion to school boards in deciding whether to renew probationary teachers' contracts, § 22-32-110 (4)(c) creates a limitation on the school board's discretion. Section 22-32-110 (4)(c) prohibits the school board from basing its renewal decision on any actions taken by the probationary teacher in good faith and in compliance with the school district's discipline code. *McIntosh v. Bd. of Educ. of Sch. Dist. No. 1*, 999 P.2d 224 (Colo. App. 2000).

**For prior inapplicability of this section to nontenured teachers**, see *Sch. Dist. No. 1 v. Thompson*, 121 Colo. 275, 214 P.2d 1020 (1950).

**Applied** in *Benke v. Neenan*, 658 P.2d 860 (Colo. 1983); *Indus. Comm'n v. Moffat Cty. Sch. D. Re No. 1*, 732 P.2d 616 (Colo. 1987).

## II. DISMISSAL PROCEDURES.

### A. Preliminary Procedures.

**The requirement for notice by certified mail simply to provide proof of service and of the date of service.** Because this requirement is not jurisdictional, providing actual notice to the teacher by other means is also proper. *Feldewerth v. Joint Sch. Dist. 28-J*, 3 P.3d 467 (Colo. App. 1999).

**The board of education shall determine whether a teacher's failure to file a request for a hearing is due to good cause.** Subsection (3) is clear on this point. The teacher's argument that the hearing officer should determine whether good cause exists is incorrect, because the hearing officer is not appointed until the board of education determines whether to grant the late request for a hearing. *Feldewerth v. Joint Sch. Dist. 28-J*, 3 P.3d 467 (Colo. App. 1999).

### B. Presiding Officer at Hearing.

**Annotator's note.** Annotations referring to a hearing panel refer to the body which conducted hearings prior to 1979 when the duty was transferred to a hearing officer. The term "hearing officer" was changed in 1987 to "administrative law judge".

**The panel hearing provision of this section is constitutional**, as the general assembly has not delegated to a special commission the functions of the school district, which is a municipal or quasi-municipal corporation. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**The panel has not been delegated any powers whatsoever;** rather, it merely conducts the hearing which is transcribed for the school board which by law is the agency empowered to accept or reject the recommendation of the panel. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**Powers.** The teacher tenure panel is granted substantially the same powers and has the same due process responsibilities as other administrative fact finding agencies. *Lovett v. Blair*, 39 Colo. App. 512, 571 P.2d 731 (1977), *aff'd*, 196 Colo. 118, 582 P.2d 668 (1978).

The hearing panel alone is empowered to assess credibility, weigh conflicting evidence and draw factual inferences from the testimony and exhibits introduced by the parties. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

**Panel may consider denial of statutory and constitutional rights.** Although the teacher tenure panel is empowered to recommend only that the teachers be retained or that the teachers be dismissed, in reaching those recommendations it is clear that the panel may consider the denial of statutory and constitutional rights. Otherwise the teacher's right to present all the evidence bearing upon the reasons for his proposed dismissal and the broad judicial review of the school board's action based upon the panel's recommendation would be rendered nugatory. *Umberfield v. Sch. Dist. No. 11*, 185 Colo. 165, 522 P.2d 730 (1974).

**It is not within the authority of the reviewing panel to terminate a teacher's employment.** *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

**The authority to dismiss a teacher rests with the school board by statute, and it may not delegate this power to another body.** *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967); *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

**The sole function of the reviewing panel is to review the evidence presented, make findings and conclusions, and report the same to the school board, so that it may make proper disposition of the particular case.** *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

The duties of the panel are limited to reviewing the evidence presented, making findings, making a recommendation to retain or dismiss, and reporting the same to the board. *Robertson v. Bd. of Educ.*, 39 Colo. App. 462, 570 P.2d 19 (1977).

In a proceeding for disciplinary action against a tenured teacher, hearing officer did not abuse discretion in denying teacher's motion for discovery and refusing to grant a continuance of the proceedings pending the outcome of criminal action against teacher. *Rosenberg v. Bd. of Educ.*, 677 P.2d 348 (Colo. App. 1983), *aff'd*, 710 P.2d 1095 (Colo. 1985).

**When informed that charges are made, a teacher has the right to request that a review panel be established to hold hearings on the substance of the charges.** *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

Once a review panel is established, evidence proving the charges must be presented and the teacher must be given an opportunity to rebut and offer evidence in his own behalf. *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

**It is illegal for the superintendent of schools to appoint a panel member.** *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**But it does not call for a new panel and hearing where there could be no different result.** The member ostensibly representing the board being illegally appointed by the superintendent of schools, his participation in the selection of the third member was tainted with his own disqualification; nevertheless, where there could be no different result, even if a rehearing were granted under a duly constituted panel, it would be a useless and meaningless procedure involving an inordinate waste of time and further delay to remand the action back for further hearing before another panel. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**Panel's ultimate findings of fact not binding on board.** Basic evidentiary facts found by the panel are binding on the board if supported by competent evidence in the record, however, any ultimate findings of fact are not binding on the board because it, not the panel, has the power to determine what facts constitute the statutory grounds for dismissal. *Blair v. Lovett*, 196 Colo. 118, 582 P.2d 668 (1978); *Suley v. Bd. of Educ.*, 633 P.2d 482 (Colo. App. 1981).

Ultimate facts are stated in terms of the statutory standard, and an ultimate finding may be and usually is mixed with ideas of law or policy. The ultimate finding is a conclusion of law or at least a determination of a mixed question of law and fact. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

Subject to judicial review, the board, not the hearing officer, has the power to determine what facts constitute the statutory grounds for dismissal. *Ware v. Morgan County Sch. Dist.* RE-3, 719 P.2d 351 (Colo. App. 1985).

**Findings of basic facts are by panel.** The panel's findings of basic, or evidentiary, facts, if supported by competent evidence, are binding on the board of education, and the board may not disregard those findings nor substitute its own findings; if the board determines that the panel's findings are insufficient to enable the board to make its final decision, it must remand the matter for more specific findings by the panel which heard the evidence — it may not simply review the record and issue its own findings. *Blair v. Lovett*, 196 Colo. 118, 582 P.2d 668 (1978).

The hearing panel alone has "basic" or evidentiary fact-finding authority, and, if supported by competent evidence, these evidentiary findings of fact are binding on the school board.



Hudson v. Bd. of Educ., 655 P.2d 853 (Colo. App. 1982).

The findings of the hearing panel are binding on a board of education if supported by substantial and competent evidence in the record and furnish the sole basis for the board's findings of ultimate facts. Ricci v. Davis, 627 P.2d 1111 (Colo. 1981).

**Finding that evidence insufficient to terminate is one of ultimate fact.** A panel finding that the evidence is insufficient to terminate a teacher is a finding of ultimate fact, and thus is not binding on the board. Suley v. Bd. of Educ., 633 P.2d 482 (Colo. App. 1981).

**It is immaterial that some hearsay evidence is admitted** at the hearing where there is wholly competent evidence more than sufficient to establish the charges, and the teacher himself also introduces hearsay evidence. Fahl v. Sch. Dist. No. 1, 116 Colo. 277, 180 P.2d 532 (1947).

**Insufficient findings by panel remedied by remand.** If a hearing panel's findings of basic fact are insufficiently explicit or detailed to enable a school board to make findings of ultimate fact, the proper remedy is a remand to the panel for more specific findings. A board may not review the record to answer unanswered questions or supply omitted information. Ricci v. Davis, 627 P.2d 1111 (Colo. 1981).

**A nonpublic meeting of the panel to "review the evidence and testimony"** which was received at a prior public hearing is not a violation of either § 29-9-101 or this section. Robertson v. Bd. of Educ., 39 Colo. App. 462, 570 P.2d 19 (1977).

Although the panel must adopt its findings and recommendations in an open session, there is no equivalent requirement that the panel's review of the evidence occur at a public meeting. Robertson v. Bd. of Educ., 39 Colo. App. 462, 570 P.2d 19 (1977).

### C. Board of Education.

**The duties of the school board** are to receive the report of the findings and conclusions made by the reviewing panel and then make an independent evaluation of the proper course of action to take, either concurring with or rejecting the panel's recommendations. Sch. Dist. No. 50 v. Witthaus, 30 Colo. App. 41, 490 P.2d 315 (1971).

**The school board has the sole power to determine what disposition should be made** if a finding has been made that grounds exist entitling the board to dismiss the teacher under this section. Lovett v. Blair, 39 Colo. App. 512, 571 P.2d 731 (1977), *aff'd*, 196 Colo. 118, 582 P.2d 668 (1978).

**Board to act on findings of majority of panel.** The report of the panel is and must be the report of the majority of the panel, and the findings of the majority of the panel are the

findings of the panel that are binding on the board. Cordova v. Lara, 42 Colo. App. 483, 600 P.2d 105 (1979).

**Board not to rely on recommendations of school staff.** Where members of a school board voted for discharge of a teacher at least partially based on the recommendations of the school staff, consideration of this information was improper. Cordova v. Lara, 42 Colo. App. 483, 600 P.2d 105 (1979). But see Willis v. Widefield Sch. Dist. No. 3, 43 Colo. App. 197, 603 P.2d 962 (1979).

**Preliminary inquiry by board.** This section contemplates a full and impartial hearing by the panel and review by the board. The board may therefore make such preliminary inquiry as is not inconsistent with its later ability to make an impartial review of the evidence adduced by the panel. Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).

A board may properly conduct a limited preliminary inquiry to determine if there is any real substance to a charge against a teacher. The formal hearing process can be both time-consuming and costly, and may subject a teacher to great embarrassment. These adverse consequences may be avoided by a measure of pre-hearing familiarity with the case. Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).

This section authorizes a board of education which has been asked to discipline or dismiss a tenured teacher to conduct a limited preliminary inquiry to determine if there is any real substance to the charges against the teacher. Ricci v. Davis, 627 P.2d 1111 (Colo. 1981).

**Board must do nothing in preliminary inquiry that would serve to remove appearance of fairness from its eventual determination.** Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).

**Such as presence of board's attorney.** A school board's attorney, who has taken part in the adversary proceedings in the role of prosecutor, should not be present during the board's deliberations. Weissman v. Bd. of Educ., 190 Colo. 414, 547 P.2d 1267 (1976).

**School board must consider findings, rather than just conclusions,** of appointed panel, for statutory authority to dismiss teacher rests exclusively with board by statute. Dugan v. Bollman, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**The board's failure to consider findings would be unlawful delegation of its power** to the panel. Dugan v. Bollman, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**Board bound by panel's findings of fact.** A school board is bound by the findings of evidentiary fact made by the hearing panel if those findings are adequately supported in the record of the panel's proceedings. A board may not usurp the panel's exclusive authority to find

evidentiary facts by basing its conclusions of ultimate fact in whole or in part on raw evidence gleaned from its review of the hearing transcript. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

The board of education may not make additional findings of evidentiary fact to supplement the hearing officer's written findings. But, such additional findings constituted harmless error where there were sufficient facts in the hearing officer's findings to support the board's decision to dismiss. *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

**If supported by competent evidence.** Although a school board may not conduct a full review of the record intended to supplement or supersede the hearing panel's findings of basic fact, it may review the record for the limited purpose of determining whether the panel's basic factual findings are supported by competent evidence. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

While the board may not review the panel's full evidentiary record and make its own findings of fact, it may review the record to ascertain that the panel's findings are supported by the evidence. *Suley v. Bd. of Educ.*, 633 P.2d 482 (Colo. App. 1981).

**The board is not bound by the hearing officer's findings of ultimate fact.** *Ware v. Morgan County Sch. Dist.* RE-3, 719 P.2d 351 (Colo. App. 1985).

And, subject to judicial review, the board, not the hearing officer, has the power to determine what facts constitute the statutory grounds for dismissal. *Ware v. Morgan County Sch. Dist.* RE-3, 719 P.2d 351 (Colo. App. 1985).

**Finding ultimate facts is the exclusive prerogative of school boards.** Because these boards have the responsibility of implementing and carrying out the educational programs of their respective communities, they must have the case-by-case authority to define the limits of such broad general grounds for dismissal as "incompetency" and "immorality" in the educational context. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981); *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

And, for the same reasons, school boards must have the case-by-case authority to define the limits of the ground of dismissal of "neglect of duty" in the educational context. *Blaine v. Moffat County Sch. Dist. Re. No. 1*, 709 P.2d 96 (Colo. App. 1985).

**Failure of board to make an ultimate finding** as to the statutory basis for a teacher's dismissal prevents court from evaluating board's order and, thus, necessitated reversal of lower court decision upholding the dismissal. *DeKoevend v. Bd. of Educ.*, 688 P.2d 219 (Colo. 1984).

**Board is to consider only evidence adopted as finding of fact**, and may not conduct a full

review of the evidence. *Thompson v. Bd. of Educ.*, 668 P.2d 954 (Colo. App. 1983).

**Finding that the teacher's action in "tapping" a student on the head with a pointer** was not unreasonable and inappropriate physical discipline was a conclusion of ultimate fact that the board was free to set aside. *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

**If a school board is unable to reach a decision** based upon the "basic" findings of fact in the panel report, the board's proper remedy is to remand that report to the hearing panel for clarification. *Hudson v. Bd. of Educ.*, 655 P.2d 853 (Colo. App. 1982).

**Board's findings and decision are entitled to presumption of regularity**, although this presumption is rebuttable. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

**No independent judgment by the school board was exercised**, where the brief cursory report of the reviewing panel merely stated a conclusion that plaintiff's employment should be terminated, the facts, evidence, and findings used to reach such a conclusion were absent, and the board merely gave formal ratification to the panel's recommendations. *Sch. Dist. No. 50 v. Withaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

**Reading of transcript of panel proceedings is not required.** Where the panel in its report to board made extensive and detailed findings that specified and condensed four days of testimony, and these findings were explicit and solidly based on substantial evidence as shown by record, and members of school board were thoroughly familiar with findings, as well as conclusions, of panel before making their decision at open meeting, fact that they did not go beyond panel's findings and personally read entire transcript of proceedings before panel is not error and did not constitute delegation of power of dismissal to panel. *Dugan v. Bollman*, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**Grounds for dismissal must be those charged or related thereto.** Two of the grounds upon which the board relied for dismissal, that the teacher had a class of problem children which were hard to manage and that the teacher's testimony impugned the financial integrity of the school district, bear no relationship to any of the charges filed, and since at the time of the hearing, she did not know of and was not required to meet any such charges, there was no authority in the law warranting a teacher's discharge on such grounds. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**Board's attorney not allowed to be present after prosecuting case.** Where the school board's attorney who had prosecuted petitioner's case before the hearing officer was not only present during the board's deliberations, but also substantially influenced the decision of the



board, the teacher is denied due process. *Lockhart v. Bd. of Educ.*, 668 P.2d 959 (Colo. App. 1983), *aff'd* in part and *rev'd* in part on other grounds, 687 P.2d 1306 (Colo. 1984).

**Board's attorney may make statements to school board** when there is no unilateral exclusion of the teacher's attorney from the deliberative process of the board. *Mondragon v. Poudre Sch. Dist. R-1*, 696 P.2d 831 (Colo. App. 1984).

**Presence during the board's deliberative process of school superintendent and principal** who had substantial interest in the board's decision regarding dismissal violated teacher's due process right to a fair and impartial determination by the board. *DeKoevend v. Bd. of Educ.*, 688 P.2d 219 (Colo. 1984).

**Inclusion of exhibits in record not admitted in disciplinary hearing.** Where nothing in the record indicated school board improperly considered the unadmitted exhibits, teacher failed to show prejudice by inclusion of exhibits in the record. *Rosenberg v. Bd. of Educ.*, 677 P.2d 348 (Colo. App. 1983).

**Absent gross abuse of discretion by the board, the courts will not interfere** with its decisions on teacher dismissals. *Ruger v. Knight*, 104 Colo. 33, 88 P.2d 118 (1939); *Engelbrecht v. Jefferson County Sch. Dist. R-1*, 687 P.2d 985 (Colo. App. 1984).

**Twenty-day period for filing notice of appeal** commences to run when the board enters its final order. *Cottman v. Aurora Pub. Sch. Bd. of Educ.*, 42 P.3d 31 (Colo. App. 2000).

#### D. Noncompliance.

**Noncompliance with statutory procedures nullifies a teacher's dismissal.** Where the school board fails to comply with the proper procedural steps in terminating the employment of a teacher plaintiff, its action in terminating the teacher's employment is a nullity. *Sch. Dist. No. 26 v. McComb*, 18 Colo. 240, 32 P. 424 (1893); *Sch. Dist. No. 50 v. Witthaus*, 30 Colo. App. 41, 490 P.2d 315 (1971).

**Improper procedural steps in terminating teacher entitles the teacher to back salary.** A teacher who was discharged by a school board after a hearing not complying with the requirements of this section was entitled to salary for the remainder of the school term for which he was employed, where he was unable to find other employment for the remainder of that term. *Sch. Dist. No. 13 v. Mort*, 115 Colo. 571, 176 P.2d 984 (1947).

**The absence of oath or affirmation by the witnesses does not make a hearing ineffective.** *Sch. Dist. No. 1 v. Thompson*, 121 Colo. 275, 214 P.2d 1020 (1950).

**Order of dismissal valid even where non-compliance with statutory deadline** where record indicates good cause for not complying with the time requirement, no prejudice to the

teacher, and the order was correct. *Engelbrecht v. Jefferson County Sch. Dist. R-1*, 687 P.2d 985 (Colo. App. 1984).

**Teacher not prejudiced by charges which were too brief.** Though the charges against a teacher were too brief as originally filed, the teacher was not prejudiced thereby where the charges were supplemented by an additional communication from the school superintendent and by conferences at which full disclosures were made, and the opportunity was given to inspect the records and files of the school board before the hearing. *Fahl v. Sch. Dist. No. 1*, 116 Colo. 277, 180 P.2d 532 (1947).

**Where dismissal proceeding is dismissed by agreement of parties as not complying** with this section, it is not "res judicata" in subsequent dismissal proceeding brought by school board pursuant to this section. *Dugan v. Bollman*, 31 Colo. App. 261, 502 P.2d 1131 (1972).

**School board may nullify prior void proceedings by reconsideration in accordance with section.** A school board may reconsider its action in dismissing a teacher; and, if the original proceedings were void for failure to give the teacher the requisite notice and hearing, the board may treat them as a nullity, and discharge the teacher after notice and hearing properly held. *Snider v. Kit Carson Sch. Dist. R-1*, 166 Colo. 180, 442 P.2d 429 (1968).

#### E. Dismissal.

**School patrons may request the removal of a teacher and state grounds** for removal to board in writing. *Hoover v. Jordon*, 27 Colo. App. 515, 150 P. 333 (1915).

**The burden of proof is upon those making the charge** against a teacher. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**Standard of proof in dismissal actions is preponderance of the evidence.** *Madril v. Sch. Dist. No. 11*, 710 P.2d 1 (Colo. App. 1985).

**Where it is alleged that a teacher broke a rule of the board of education**, it was first required that there be proof of the school board rule and, secondly, that the teacher deliberately violated a rule of the board. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

**A school committee may regulate a teacher's classroom speech if:** (1) The regulation is reasonably related to a legitimate pedagogical concern and (2) the school provided the teacher with notice of what conduct was prohibited. A teacher is entitled to notice of what classroom conduct is prohibited, and a school district cannot retaliate against speech that it did not prohibit. *Wilder v. Bd. of Educ.*, 944 P.2d 598 (Colo. App. 1997), *aff'd*, 960 P.2d 695 (Colo. 1998).

**Where teacher was notified of charges against her and she and her counsel were**

aware of meaning of charges and presented adequate defense in her behalf and there was no evidence that she was prejudiced by absence of additional specifications, charges were adequate to put teacher on notice of evidence to be presented against her and motion for bill of particulars was properly denied. *Dugan v. Bollman*, 31 Colo. App. 261, 502 P.2d 1131 (1972).

Where there was no suggestion that the hearing actually afforded the teacher was only a "pretended hearing", and no challenge was made to the ultimate finding of the school board that good cause for dismissal did in fact exist, the dismissal after a hearing was lawful. *Snider v. Kit Carson Sch. Dist. R-1*, 166 Colo. 180, 442 P.2d 429 (1968).

A history of prior disciplinary measures has probative value in deciding whether dismissal for cause is warranted. *Robertson v. Bd. of Educ.*, 39 Colo. App. 462, 570 P.2d 19 (1977).

Use of events occurring prior to first suspension as basis for subsequent dismissal. Where there is no evidence in the record that the suspension of a teacher or his subsequent reinstatement was intended as an adjudication on the merits of any charge against him, or that it was a disciplinary action by the superintendents, events occurring prior to the first suspension can be used as a basis for a subsequent dismissal. *Robertson v. Bd. of Educ.*, 39 Colo. App. 462, 570 P.2d 19 (1977).

Findings sufficient to support dismissal on the ground of insubordination. *Thompson v. Bd. of Educ.*, 668 P.2d 954 (Colo. App. 1983); *Lockhart v. Arapahoe County Sch. Dist. No. 6*, 735 P.2d 913 (Colo. App. 1986).

The occurrence of one incident does not substantiate a charge of insubordination or wilful violation of a board rule on which the board relies for its decision. *Nordstrom v. Hansford*, 164 Colo. 398, 435 P.2d 397 (1967).

Tenured teacher must be paid his or her salary until the board enters an order of dismissal. *Harvey v. Jefferson County Sch. Dist. No. R-1*, 710 P.2d 1103 (Colo. 1985) (decided under law in effect prior to 1983 amendment).

Because tenure is a vested and substantive right which cannot be impaired by the retrospective application of a statute, 1983 amendments to the act, which limited the accrual of salary during suspension and which were passed prior to the entering of an order on petitioner's dismissal, had no effect on the amount of back pay due petitioner. *Lockhart v. Arapahoe County Sch. Dist. No. 6*, 735 P.2d 913 (Colo. App. 1986).

### III. JUDICIAL REVIEW.

The 1979 amendment of subsection (11) gives the court of appeals original jurisdiction for appellate review of all cases where a school

board order in a dismissal proceeding has been entered prior to the effective date of the amendment. *Suley v. Bd. of Educ.*, 633 P.2d 482 (Colo. App. 1981).

The change in the review procedure effected by the 1979 amendment to subsection (11) was procedural, and since there was no expressed intent to delay the effective date of the amendment, it became effective immediately. *Suley v. Bd. of Educ.*, 633 P.2d 482 (Colo. App. 1981).

Court of appeals has original jurisdiction under the teacher tenure act to review the dismissal of a tenured teacher. *Talbot v. Sch. Dist. No. 1*, 700 P.2d 919 (Colo. App. 1984).

General assembly provided for broad judicial review of any order of the board of education under this act. *Umbertfield v. Sch. Dist. No. 11*, 185 Colo. 165, 522 P.2d 730 (1974).

Judicial review is merely remedy for wrongful state agency action; it is not necessary for a plaintiff to await disposition of such a state action prior to the initiation of an action based upon 42 U.S.C. § 1983. *Gilbert v. Sch. Dist. No. 50*, 485 F. Supp. 505 (D. Colo. 1980).

Tenured teacher's action for review of his dismissal based upon federal civil rights statutes [42 U.S.C. § 1983] was properly brought in district court and the teacher was not required to exhaust administrative remedies before bringing an action based on the statute. *Talbot v. Sch. Dist. No. 1*, 700 P.2d 919 (Colo. App. 1984).

Record on review. Although a school board's findings of ultimate fact must be sustained if warranted in the record, the record, for purposes of judicial review of those findings, consists solely of the formal findings of basic or evidentiary fact made by the hearing panel and forwarded to the board. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

While a reviewing court may scrutinize the transcript of the hearing before the panel to ascertain whether the panel's findings of basic fact are supported by substantial or competent evidence, it may not review the hearing record to determine whether the board's findings are warranted. *Ricci v. Davis*, 627 P.2d 1111 (Colo. 1981).

Standard of judicial review. In order for a reviewing court to find that an administrative tribunal has abused its discretion, the record must clearly show such abuse. *Rosenberg v. Bd. of Educ.*, 677 P.2d 348 (Colo. App. 1983).

Denial of motion not final agency action. The denial of the motion to dismiss and motion for bill of particulars by the panel does not constitute final agency action which is subject to judicial review. *Lovett v. Sch. Dist. No. 1*, 33 Colo. App. 434, 523 P.2d 152 (1974).

Where there had been no hearing on the merits of the charge of incompetency nor findings made by the panel and no final action had been taken by the board, to allow judicial review at this state of the proceedings would result in



piecemeal review of the tenure act proceedings. *Lovett v. Sch. Dist. No. 1*, 33 Colo. App. 434, 523 P.2d 152 (1974).

**No basis for judicial review.** Where teacher was discharged from her job by letter and not by order of the board of education, there is no final order within meaning of the statute for the court of appeals to review. *Snyder v. Jefferson Cty. Sch. Dist. No. 1*, 707 P.2d 1049 (Colo. App. 1985).

Issues never presented to or ruled upon by the hearing officer are not preserved for appellate review. Appellate court will decline to consider issues raised for the first time on appeal. *Sch. Dist. No. 1 v. Cornish*, 58 P.3d 1091 (Colo. App. 2002).

**Where tenured teacher received actual notice of termination, action for review of the dismissal was barred as untimely** where it was not filed within the 45 days during which the teacher was required to seek review pursuant to this section and § 24-4-106 (11). *Talbot v. Sch. Dist. No. 1*, 700 P.2d 919 (Colo. App. 1984).

**As reenacted, this section authorizes teachers to appeal only school board decisions of dismissal.** This section does not give jurisdiction to the court to consider appeals of school board decisions placing a teacher on probation. *Holdridge v. Bd. of Educ.*, 881 P.2d 448 (Colo. App. 1994).

**The court of appeals shall determine in all cases governed by this section whether the board of education's conduct in ordering dismissal of a teacher was arbitrary, capricious, or legally impermissible** regardless of whether or not the board's decision is consistent with the hearing officer's recommendation. *Adams County Sch. Dist. 50 v. Heimer*, 919 P.2d 786 (Colo. 1996); *Bd. of Educ. of West Yuma v. Flaming*, 938 P.2d 151 (Colo. 1997).

**The court of appeals may review the entire record**, including the hearing transcript and the hearing officer's findings and recommendation, in order to determine whether the hearing officer's findings were supported by substantial evidence. If that issue is not raised or if the court of appeals is satisfied that the record adequately supports the hearing officer's findings, then the court of appeals must shift its focus to determine if the board's decision is arbitrary, capricious, or legally permissible in light of the hearing officer's finding of fact. *Adams County Sch. Dist. 50 v. Heimer*, 919 P.2d 786 (Colo. 1996).

**Attorney fees awarded to school district pursuant to subsection (10)(e) because teacher's appeal of dismissal "lacked substantial justification".** Court applied the meaning of

§ 13-17-102 (2) and (4) and awarded attorney fees because: (1) Hearing officer found multiple grounds for dismissal; (2) teacher raised several issues for the first time on appeal; and (3) there was no justifiable legal basis to contest the hearing officer's conclusion of neglect of duty and insubordination. *Sch. Dist. No. 1 v. Cornish*, 58 P.3d 1091 (Colo. App. 2002).

#### IV. REMEDIES FOR WRONGFUL DISMISSAL.

**If wrongfully dismissed, the teacher's remedy is an action for damages.** *Sch. Dist. No. 1 v. Carson*, 9 Colo. App. 6, 46 P. 846 (1896).

**Damages equal to remaining salary under contract.** Where a teacher is discharged, without cause shown, as provided by this section, he is entitled to salary for the balance of the term of his contract. *Sch. Dist. No. 25 v. Youberg*, 77 Colo. 202, 235 P. 351 (1925).

**School superintendent may receive damages.** Where a school superintendent who is regularly employed, and who is ready, willing, and able to perform his duties, including teaching, but is denied the privilege by his employer, he is entitled to his damages thereby sustained. *Cheyenne County High Sch. v. Graves*, 87 Colo. 52, 284 P. 1026 (1930).

**Damages may be minimized by showing amount teacher earned or could have earned during remaining period of contract.** Where the teacher has made out a cause of action for wrongful discharge, which is supported by the evidence, the only thing left for the board of education to do, in order to prevent full recovery by the teacher for the remaining time under the contract, is to diminish the sum by introducing evidence, if it could, showing the teacher had earned other money during that period, or that he had remained idle and made no reasonable effort to find other employment, which facts, if proven, could be used by the board to minimize the loss for which it was liable. *Sch. Dist. No. 3 v. Nash*, 27 Colo. App. 551, 140 P. 473 (1914).

**A school teacher, wrongfully discharged, and securing employment in a different locality, is entitled to an allowance for expenses reasonably incurred in seeking new employment and for an increase in his expenses, occasioned by the removal to the new locality; and he may show such increase in his expenses, without pleading it, but the expense of removing the teacher's family to the new locality cannot be considered unless specially pleaded.** *Sch. Dist. No. 3 v. Nash*, 27 Colo. App. 551, 140 P. 473 (1914).

## PART 4

## COMPENSATION

**22-63-401. Salary schedule - adoption - changes.** (1) The board of a school district shall adopt by resolution a salary schedule that may be by job description and job definition, a teacher salary policy based on the level of performance demonstrated by each teacher, or a combination of the salary schedule and salary policy. Such salary schedule, salary policy, or combination schedule and policy shall be adopted in conjunction with or prior to the adoption of the budget for the following fiscal year. The schedule, policy, or combination schedule and policy shall remain in effect until changed or modified by the board. All teachers employed by the district shall be subject to such salary schedule, policy, or combination schedule and policy.

(2) If a district chooses to adopt a salary schedule, the board shall place each teacher in the school district on the salary schedule at a level at least commensurate with, but not limited to, each teacher's education, prior experience, and experience in the district as provided in the salary schedule.

(3) The adopted salary schedule, policy, or combination schedule and policy shall not be changed or modified during the school year in a manner so as to reduce the salary of a teacher for such school year; but the reassignment of a teacher with a reduction in salary pursuant to section 22-63-206 (2) or (3) shall not be included within the limitations of this subsection (3).

(4) The salary or compensation of any teacher may be changed for any succeeding school year in accordance with the salary schedule, policy, or combination schedule and policy adopted by the employing board. There shall be no reduction in the salary of any classroom teacher unless there is a general reduction in the salaries of all teachers in the district according to the adopted salary schedule, policy, or combination schedule and policy.

(5) The trustee or trustees of a trust for the benefit of a teacher compensation system in a school district coterminous with a city and county shall manage and invest the funds and assets held in trust pursuant to the standards and other provisions for trustees set forth in the "Colorado Uniform Prudent Investor Act", article 1.1 of title 15, C.R.S.

**Source:** **L. 90:** Entire article R&RE, p. 1127, § 1, effective July 1; (1) amended, p. 1084, § 44, effective July 1. **L. 95:** Entire section amended, p. 882, § 1, effective July 1. **L. 2006:** (5) added, p. 551, § 1, effective August 7.

**Editor's note:** This section is similar to former § 22-63-105 as it existed prior to 1990.

## ANNOTATION

**Annotator's note.** Since § 22-63-401 is similar to § 22-63-105 as it existed prior to the 1990 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

**Prospective modification only.** The school board has the power to modify salary schedules only prospectively. *Ball v. Weld County Sch. Dist. No. RE-3J*, 37 Colo. App. 16, 545 P.2d 1370 (1975).

**The board's discretion with respect to establishing a salary schedule includes determining the educational requirements for placement on such schedule.** *Osborn v. Harri-*

*son Sch. Dist. No. 2*, 844 P.2d 1283 (Colo. App. 1992).

**Classifications of teachers need only be reasonable and result in uniform treatment of those performing similar functions.** *Osborn v. Harrison Sch. Dist. No. 2*, 844 P.2d 1283 (Colo. App. 1992).

**Even if the duties of counselors and social workers are identical, the different educational requirements provide a reasonable basis for a salary differential.** *Osborn v. Harrison Sch. Dist. No. 2*, 844 P.2d 1283 (Colo. App. 1992).

**22-63-402. Services - disbursements.** No order or warrant for the disbursement of school district moneys shall be drawn in favor of any person for services as a teacher, except



for services performed for a junior college district or in an adult education program, unless the person holds a valid teacher's license or authorization from the department of education. Such license or authorization shall be duly registered in the administrative office of the school district wherein the services are to be rendered. A teacher shall hold a valid license or authorization during all periods of employment by a school district. A person who performs services as a teacher without possessing a valid teacher's license or authorization shall forfeit all claim to compensation out of school district moneys for the time during which services are performed without the license or authorization.

**Source:** **L. 90:** Entire article R&RE, p. 1127, § 1, effective July 1. **L. 99:** Entire section amended, p. 1196, § 13, effective June 1. **L. 2009:** Entire section amended, (SB 09-160), ch. 292, p. 1457, § 11, effective May 21.

**Editor's note:** This section is similar to former § 22-63-104 as it existed prior to 1990.

**22-63-403. Payment of salaries.** Upon the termination of employment of a teacher prior to the end of the employment contract and prior to receiving all salary installments, said teacher is entitled to a pro rata share of the salary installments due and payable pursuant to said contract for the period during which no services are required to be performed, except as provided in section 22-63-202 (2).

**Source:** **L. 90:** Entire article R&RE, p. 1128, § 1, effective July 1.

**Editor's note:** This section is similar to former § 22-63-106 as it existed prior to 1990.

## ARTICLE 64

### Retirement Systems

#### **22-64-101 to 22-64-221. (Repealed)**

**Source:** **L. 2009:** Entire article repealed, (SB 09-282), ch. 288, p.1399, § 65, effective January 1, 2010.

**Editor's note:** This article was numbered as article 19 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 65

### Professional Practices Commission

#### **22-65-101 to 22-65-107. (Repealed)**

**Source:** **L. 91:** Entire article repealed, p. 883, § 1, effective June 5.

**Editor's note:** This article was numbered as article 37 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 66

### Alternative Salary Policies - Pilot Programs

#### **22-66-101 to 22-66-105. (Repealed)**

**Source:** **L. 95:** Entire article repealed, p. 883, § 2, effective July 1.

**Editor’s note:** This article was added in 1984. For amendments to this article prior to its repeal in 1995, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 67

Teacher Salary Policy Planning Grants

22-67-101 to 22-67-106. (Repealed)

**Editor’s note:** (1) This article was added in 1995. For amendments to this article prior to its repeal in 2001, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-67-106 provided for the repeal of this article, effective July 1, 2001. (See L. 95, p. 995.)

ARTICLE 68

Quality Teachers Commission

22-68-101 to 22-68-106. (Repealed)

**Editor’s note:** (1) This article was added in 2007. For amendments to this article prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-68-106 provided for the repeal of this article, effective July 1, 2012. (See L. 2009, p. 1401.)

ARTICLE 68.5

Educator Identifier System

22-68.5-101 to 22-68.5-104. (Repealed)

**Editor’s note:** (1) This article was added in 2009. For amendments to this article prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-68.5-104 provided for the repeal of this article, effective July 1, 2012. (See L. 2009, p. 1405.)

ARTICLE 69

Alternative Teacher Compensation Plan Act

**Cross references:** For the legislative declaration contained in the 2008 act enacting this article, see section 1 of chapter 286, Session Laws of Colorado 2008.

22-69-101.	Short title.	22-69-105.	Alternative teacher compensa-
22-69-102.	Legislative declaration.		tion plan grant program -
22-69-103.	Definitions.		rules - awarding grants.
22-69-104.	Alternative teacher compensa-	22-69-106.	Alternative teacher compensa-
	tion plan grant program -		tion plan grant program -
	created - applications.		report.



**22-69-101. Short title.** This article shall be known and may be cited as the “Alternative Teacher Compensation Plan Act”.

**Source: L. 2008:** Entire article added, p. 1219, § 34, effective May 22.

- 22-69-102. Legislative declaration.** (1) The general assembly hereby finds that:
- (a) Teachers are a key component in the academic success of children;
  - (b) To support teachers, school districts should encourage innovative, creative, and high-quality teaching practices, and teachers who follow these practices and who promote excellent student performance should be rewarded;
  - (c) Promoting student performance and achieving teaching excellence is particularly difficult when dealing with the issues related to at-risk students;
  - (d) Consistent with the findings of the P-20 council, the state does not fully fund state mandates nor adequately meet the needs of school districts to attract, retain, and support the high-quality teachers needed to reach Colorado’s educational goals;
  - (e) Alternative teacher compensation plans can serve as a mechanism for rewarding teaching excellence and encouraging creative and innovative approaches to helping Colorado improve the academic performance of all students and meet its education goals that include, but are not limited to, decreasing the dropout rate, closing the achievement gap, and increasing the number of postsecondary degrees and certificates awarded to Colorado students; and
  - (f) Consistent with the recommendations of the P-20 council, the ultimate success of alternative compensation systems will require both significant increases in base pay and sustained, stable, and sufficient financial resources to ensure that meaningful, differentiated pay schedules can be supported over the long term.
- (2) The general assembly therefore declares that providing seed money through a competitive grant program to school districts that seek to develop alternative teacher compensation plans is a concrete way in which the state can further the goals of teaching excellence and high student achievement in the participating school districts.
- (3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for the design and development of alternative teacher compensation plans is specifically included as an authorized use of moneys in the state education fund created in section 17 (4) of article IX of the state constitution. Therefore, this article may be implemented with appropriations from the state education fund.

**Source: L. 2008:** Entire article added, p. 1219, § 34, effective May 22.

- 22-69-103. Definitions.** As used in this article, unless the context otherwise requires:
- (1) “Department” means the department of education, created and existing pursuant to section 24-1-115, C.R.S.
  - (2) “Grant program” means the alternative teacher compensation plan grant program created pursuant to section 22-69-104.
  - (3) “P-20 council” means the governor’s P-20 education coordinating council created by the governor under executive order B 003 07.
  - (4) “School district” means any school district organized and existing pursuant to law but does not include a junior college district.
  - (5) “State board” means the state board of education, created and existing pursuant to section 1 of article IX of the state constitution.
  - (6) “Teacher” means a person employed to instruct students in a public school in the state.

**Source: L. 2008:** Entire article added, p. 1220, § 34, effective May 22.

**22-69-104. Alternative teacher compensation plan grant program - created - applications.** (1) There is hereby created in the department the alternative teacher compensation plan grant program to provide funding to school districts to support the

design and development of an alternative teacher compensation plan that is tailored to the particular school district.

(2) (a) The department shall administer the grant program as provided in this article and pursuant to the rules established by the state board.

(b) A school district may apply to the department, in accordance with procedures and time frames established by the state board, to receive grant moneys for the design and development of an alternative teacher compensation plan.

(c) The criteria for awarding grants, at a minimum, shall require that:

(I) The final alternative teacher compensation plan be designed and developed collaboratively with teachers through the school district-adopted procedures for setting compensation, administrators, parents, and the school district board of education;

(II) The final alternative teacher compensation plan be open to all teachers who meet the established performance criteria without regard to grade level, subject area, or assignment; and

(III) The school district seek a stable, sufficient, and sustainable source of new revenue to fund the alternative teacher compensation plan on an ongoing basis.

(d) The state board shall utilize the research and resources of the P-20 council in establishing any additional criteria for school districts seeking grant moneys.

(3) Moneys awarded to a school district pursuant to the grant program shall be used by the school district to support the creation of the school district's alternative teacher compensation plan. Support may include, but need not be limited to:

(a) Identifying overall goals and objectives for the school district's alternative teacher compensation plan;

(b) Identifying various methods of assessing student achievement and teacher effectiveness;

(c) Creating data systems needed for an alternative teacher compensation system;

(d) Forecasting the future costs of the alternative teacher compensation system to ensure sustainability;

(e) Linking the alternative teacher compensation plan with the overall school district instructional improvement strategy and the state's educational goals;

(f) Aligning the school district's human resources, curriculum, and professional development structures with the pay structure specified in the alternative teacher compensation plan;

(g) Establishing outreach and on-going communications within the school district and to the community regarding the alternative teacher compensation plan;

(h) Strategies for recruiting and supporting highly effective teachers in struggling schools; and

(i) Strategies for recruiting and retaining high-quality teachers in subject areas that are difficult to staff.

(4) A school district's final plan for an alternative teacher compensation system shall:

(a) Provide compensation in addition to existing pay schedules;

(b) Be transparent with respect to how a teacher qualifies for additional compensation and how much additional compensation a qualifying teacher may receive;

(c) Contain broad, multi-dimensional criteria for assessing performance within the system;

(d) Include all of the additional compensation in a teacher's retirement or pension calculations;

(e) Include a procedure for challenging adverse decisions under the system to ensure fairness; and

(f) Contain a process for continual evaluation of the system that shall, at a minimum, address the following:

(I) How the alternative teacher compensation system will demonstrate measurable effectiveness;

(II) How the alternative teacher compensation system will measure and demonstrate a decrease in the school district's dropout rate;

(III) How the alternative teacher compensation system will help to close the achievement gap; and



(IV) How the alternative teacher compensation system will help to increase students' attainment of postsecondary degrees and certificates.

(5) The department shall make available to each school district that receives a grant pursuant to the grant program the research and other materials concerning alternative teacher compensation plans collected by the P-20 council.

(6) Each school district that receives a grant shall submit a copy of its final alternative teacher compensation plan to the department, along with a summary of the key components of the plan and the mechanism for funding the plan.

(7) Nothing in this article shall be construed to require a school district to participate in the grant program or to modify the terms of an existing teacher compensation plan or contract.

**Source: L. 2008:** Entire article added, p. 1220, § 34, effective May 22.

**22-69-105. Alternative teacher compensation plan grant program - rules - awarding grants.** (1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the grant program. At a minimum, the rules shall specify the procedures and time frames for applying for the grant, the form of the grant application, the information to be provided by the school district applicant, and any additional criteria for awarding grants.

(2) The department shall review each grant application received from a school district pursuant to section 22-69-104 and shall make recommendations to the state board concerning whether a grant should be awarded to a school district and the amount of the grant to be awarded. If the department determines that an application is missing any information required by rule of the state board to be included with the application, the department may contact the school district to obtain the missing information.

(3) Subject to available appropriations, beginning in the 2008-09 fiscal year, the state board shall annually award grants under the grant program to applying school districts, taking into account the department's recommendations.

(4) The department is authorized to seek and accept gifts, grants, and donations from private and public sources for the implementation of the grant program pursuant to this article.

(5) The department may annually expend no more than two percent of the moneys annually appropriated for the grant program to offset the direct and indirect costs incurred in implementing the grant program pursuant to this article.

(6) The general assembly may annually determine the amount to appropriate from the state education fund or from any other source to the department to fund grants to school districts for the purposes of this article.

**Source: L. 2008:** Entire article added, p. 1222, § 34, effective May 22. **L. 2009:** (6) amended, (SB 09-213), ch. 4, p. 8, § 1, effective February 26.

**Cross references:** For the state education fund, see § 17 of article IX of the state constitution.

**22-69-106. Alternative teacher compensation plan grant program - report.** (1) On or before January 15, 2010, and on or before January 15 each year thereafter, so long as grant moneys were awarded to at least one school district pursuant to the grant program during the preceding calendar year, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, and to the governor the following information from the preceding calendar year:

(a) A general description of how the grant program was implemented, including the criteria used to award the grants to school districts;

(b) The number of grants awarded, the name of each school district receiving a grant, and the amount of each grant awarded;

(c) A summary of the goals of each school district awarded a grant with respect to the design and development of its alternative teacher compensation plan; and

(d) A summary of the key components of each final alternative teacher compensation plan submitted to the department pursuant to section 22-69-104 (6).

(2) Each school district participating in the grant program shall provide any data or other information requested by the department for the purpose of meeting the reporting requirements of subsection (1) of this section.

**Source: L. 2008:** Entire article added, p. 1223, § 34, effective May 22.

## **JUNIOR COLLEGES**

### **ARTICLE 70**

#### **Junior Colleges - Organization**

##### **22-70-101 to 22-70-132. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 23 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For current provisions concerning junior colleges, see article 71 of title 23.

### **ARTICLE 71**

#### **Junior Colleges - Revenue Securities Law**

##### **22-71-101 to 22-71-113. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 23 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For current provisions entitled the "Junior College Revenue Securities Law", see part 7 of article 71 of title 23.

### **ARTICLE 72**

#### **Grand Junction and Trinidad Junior Colleges**

##### **22-72-101 to 22-72-104. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 24 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

### **ARTICLE 73**

#### **Morgan County Junior College District**

##### **22-73-101 and 22-73-102. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.



**Editor's note:** This article was numbered as article 35 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## MISCELLANEOUS

### ARTICLE 80

#### School for the Deaf and the Blind

**Editor's note:** The substantive provisions of this article were previously located in article 35 of title 27.

**Cross references:** For the constitutional provision authorizing the establishment and support of the school for the deaf and the blind by the state, see § 1 of article VIII of the state constitution.

22-80-101.	School located at Colorado Springs - repeal. (Repealed)	22-80-109.	Who may be admitted.
22-80-101.5.	Definitions.	22-80-110.	Nonresident students - admission.
22-80-102.	Educational institution.	22-80-111.	Counties to pay expense - repeal. (Repealed)
22-80-103.	Board of trustees - appointments - powers - duties - fund created.	22-80-112.	Pupils subject to rules.
22-80-104.	Advisory board created - terms - compensation - repeal. (Repealed)	22-80-113.	Educational training - expenditures.
22-80-105.	Superintendent and officers - appointment - compensation.	22-80-114.	Expenditures, how made.
22-80-106.	Duties of superintendent - publications.	22-80-115.	Readers for blind - expenses of deaf students. (Repealed)
22-80-106.5.	Compensation of teachers.	22-80-116.	Programs for parents.
22-80-107.	Bond of superintendent - repeal. (Repealed)	22-80-117.	Study group - creation - appointments - duties - report. (Repealed)
22-80-108.	Interest in contracts - penalty.	22-80-118.	Provide assistance - public education - American sign language.
		22-80-119.	Standardized immunization policy required.

#### 22-80-101. School located at Colorado Springs - repeal. (Repealed)

**Source:** L. 77: Entire article added, p. 1090, § 2, effective July 1. L. 2003: (2) added by revision, pp. 1577, 1586, §§ 1, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1577, 1586.)

**22-80-101.5. Definitions.** For purposes of this article, unless the context otherwise requires:

(1) "Board of trustees" means the governing board of the Colorado school for the deaf and the blind established in section 22-80-103.

(2) "School" means the Colorado school for the deaf and the blind described in section 22-80-102.

**Source:** L. 2003: Entire section added, p. 1577, § 2, effective July 1, 2004.

**22-80-102. Educational institution.** (1) (a) There shall be permanently maintained in the city of Colorado Springs, in the county of El Paso, an institution for the support and education of deaf and blind children residing within the state of Colorado, to be known as the Colorado school for the deaf and the blind. The school shall be a body corporate. The school shall include such other facilities and programs located within the state as may be established and maintained pursuant to law.

(b) The school, the main campus of which shall be located in the city of Colorado Springs, in the county of El Paso, is declared to be one of the educational institutions of the state of Colorado and has for its object the education of the children of the state who, by reason of the impairment of their sense of hearing or of sight, cannot be advantageously educated in the other schools or educational institutions of the state. Said school shall not be regarded or classed as a reformatory or charitable institution.

(2) In addition to including a long-term residential school, the school shall be a resource to school districts, state institutions, and other approved education programs. Resource services shall include, but shall not be limited to, the following:

- (a) Assessment and identification of educational needs;
- (b) Special curricula;
- (c) Equipment and materials;
- (d) Supplemental related services;
- (e) Special short-term programs;
- (f) Program planning and staff development;
- (g) Programs for parents, families, and the public;
- (h) Research and development to promote improved educational programs and services.

(3) (a) For purposes of federal law, the school shall be a local educational agency, deemed to be a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in the state.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3) to the contrary, the school shall not be a local educational agency for the purposes of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq.

(4) (a) The school may, in the discretion of the board of trustees, provide additional educational services on a local or regional basis in the state. In providing the services, the school shall seek to employ innovative delivery systems, which may include delivery of services through:

- (I) Intergovernmental agreements with school districts or other local governmental entities;
- (II) Partnerships with boards of cooperative services created pursuant to article 5 of this title; or
- (III) Charter schools chartered by the board of trustees pursuant to paragraph (b) of this subsection (4).

(b) The board of trustees is authorized to grant charters to applicants that propose a charter school that is designed to provide educational services solely to students who would qualify for admission to the Colorado school for the deaf and the blind. The board of trustees shall promulgate rules governing the contents of, procedures for, approval of, and appeals pertaining to, a charter application submitted pursuant to this paragraph (b) and renewal of a charter. The rules shall reflect the unique needs of and responsibilities of educating children with hearing or sight impairment.

(5) The school may enter into contracts and receive federal matching funds for moneys spent in providing student health services as provided in section 25.5-5-301 (6) or 25.5-5-318, C.R.S.

**Source:** L. 77: Entire article added, p. 1090, § 2, effective July 1. L. 91: Entire section amended, p. 524, § 1, effective April 17. L. 2003: (1) and IP(2) amended and (3), (4), and (5) added, p. 1577, § 3, effective July 1, 2004. L. 2006: (5) amended, p. 2006, § 65, effective July 1.

## **22-80-103. Board of trustees - appointments - powers - duties - fund created.**

(1) (a) There is hereby created by a **type 1** transfer in the department of education a board of trustees for the Colorado school for the deaf and the blind. The board of trustees shall consist of seven members who are residents of Colorado, appointed by the governor with the consent of the senate. Of these seven members, at least one appointee shall be a blind



person and at least one appointee shall be a deaf person. Beginning with the first appointment made on or after August 5, 2009, the governor shall ensure that, of the seven members of the board of trustees, at least one appointee is the parent of a child who is deaf or blind or both.

(b) In making appointments pursuant to paragraph (a) of this subsection (1), the governor shall give due consideration to establishing and maintaining a geographical and urban and rural balance among the board members. No more than four of the seven members shall be members of the same political party. The commissioner of education or his or her designee shall serve as an ex officio nonvoting member of the board of trustees. The terms of office of the board of trustees shall be four years; except that, of the members initially appointed, four members shall serve four-year terms and three members shall serve two-year terms, as designated by the governor. The governor may remove any member for misconduct, incompetence, or neglect of duty and shall fill all vacancies that occur.

(c) Repealed.

(2) The board of trustees shall elect a chair annually from among its members. Members of the board shall receive no compensation but are entitled to be reimbursed for necessary travel expenses incurred in the exercise of their official duties at the rate authorized for state employees. In addition, a member with sensory impairment is entitled to be reimbursed for reasonable expenses incurred in obtaining necessary assistance to fulfill his or her duties as a member of the board of trustees.

(3) The board of trustees is authorized to promulgate rules pursuant to section 24-1-115 (8), C.R.S., to implement provisions of law relating to operation of the school.

(4) In addition to any other powers granted by law to the board of trustees, the board shall have the following powers:

(a) To have and use a corporate seal;

(b) To sue and be sued in its own name;

(c) To incur debts, liabilities, and obligations, subject to any limitations imposed thereon pursuant to law;

(d) To cooperate and contract with the state or federal government or an agency or instrumentality thereof and to apply for and receive grants or financial assistance from any of such entities;

(e) To act on behalf of the state of Colorado pursuant to a statutory authorization;

(f) To acquire, hold, lease, sell, or otherwise dispose of real or personal property or a commodity or service;

(g) To do or perform an act authorized by this article by means of an agent or by contract with a person, firm, or corporation;

(h) To provide for the necessary expenses of the board of trustees in the exercise of its powers and the performance of its duties and reimburse a board member for expenses as provided in subsection (2) of this section;

(i) To determine eligibility of students and procedures for admission to the school;

(j) To provide for the students of the school necessary bedding, food, and medical services and such other things as may be proper for the health and comfort of the students without cost to their parents;

(k) To provide for the proper keeping of accounts and records and for budgeting of funds;

(l) To act as a public entity for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.;

(m) To set tuition and other fees for nonresidents of the state and to enter into contracts for the admission of nonresident students into the school; and

(n) To exercise any other powers that are essential to carrying out the provisions of this article.

(5) (a) The board of trustees is authorized to receive gifts, grants, and donations from private or public sources in accordance with conditions prescribed by the donor; but no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Gifts, grants, and donations received by the board of trustees may be transmitted to the state treasurer who shall credit the same to the Colorado school for the deaf and the blind trust fund created in paragraph (b) of this

subsection (5) or may be transferred to a nonprofit entity described in section 24-1-107.5 (2) (a) (II) (F), C.R.S. The board of trustees may sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

(b) The Colorado school for the deaf and the blind trust fund is hereby created, and referred to in this subsection (5) as the “trust fund”. The trust fund shall consist of moneys acquired from private sources and any moneys received by the school and deposited with the state treasurer prior to July 1, 2004, and any interest earned thereon. All income derived from the deposit and investment of moneys in the trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(c) The board of trustees is hereby authorized to expend such amounts from the trust fund as the board of trustees deems to be in the best interest of the school and its students.

(6) Title to any gift, donation, or bequest received by the board of trustees on behalf of the school shall vest in the board of trustees. Title to all other property and other assets of the school shall vest in the state board of education, but the board of trustees shall have complete jurisdiction over the management of the school.

(7) The board of trustees shall transmit, on or before January 1, 2005, and on or before January 1 of each year thereafter, a report to the education committees of the senate and house of representatives that contains the following:

(a) All school performance report data for the school, as specified by the department of education;

(b) All training, mentoring, and professional development activities arranged for the school’s teachers; and

(c) Any parental education and parental involvement components in the school’s program.

**Source:** **L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 97:** Entire section amended, p. 1139, § 8, effective May 28. **L. 2003:** Entire section R&RE, p. 1579, § 4, effective July 1, 2004. **L. 2009:** (7)(a) amended, (SB 09-163), ch. 293, p. 1546, § 54, effective May 21; (1)(a) amended, (SB 09-090), ch. 291, p. 1441, § 8, effective August 5.

**Editor’s note:** Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective January 1, 2005. (See L. 2003, p. 1579.)

## **22-80-104. Advisory board created - terms - compensation - repeal. (Repealed)**

**Source:** **L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 86:** (3) added, p. 412, § 19, effective March 26. **L. 87:** (2) amended, p. 906, § 12, effective June 15. **L. 91:** Entire section amended, p. 525, § 2, effective April 17; (3) repealed, p. 694, § 7, effective April 20. **L. 2003:** (1) and (2) amended and (4) added, p. 1581, § 5, effective July 1, 2004.

**Editor’s note:** Subsection (4) provided for the repeal of this section, effective January 1, 2005. (See L. 2003, p. 1581.)

**22-80-105. Superintendent and officers - appointment - compensation.** (1) The board of trustees shall have charge of the general interests of the school and, pursuant to section 13 of article XII of the state constitution, shall set appropriate qualifications for a superintendent and shall appoint and fix the compensation of the superintendent.

(2) The superintendent and all teaching employees described in subsection (1) of this section shall be persons who are:

(a) Competent educators of deaf children, blind children, or children with multiple disabilities or sensory impairments; and



(b) Acquainted with school management and class instruction of deaf children, blind children, or children with multiple disabilities or sensory impairments.

(3) As part of the interview process for the superintendent, the board of trustees may involve deaf individuals and blind individuals to assist in the assessment of superintendent candidates.

**Source:** **L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 91:** Entire section amended, p. 525, § 3, effective April 17. **L. 96:** Entire section amended, p. 1800, § 26, effective June 4. **L. 2003:** Entire section R&RE, p. 1582, § 6, effective July 1, 2004.

**22-80-106. Duties of superintendent - publications.** (1) (a) The superintendent shall be the principal executive officer of the school. The superintendent shall be the purchasing agent for the board of trustees and, under such rules as the board of trustees may prescribe, shall have charge of the premises, property, and students. With the approval of the board of trustees, pursuant to section 13 of article XII of the state constitution, the superintendent shall appoint all other officers and employees in the school and fix the compensation for all nonteaching employees. All officers and employees, in the discharge of their duties, shall be wholly subordinate to the superintendent, and all orders to them shall come from or through the superintendent or by his or her authority. The superintendent shall see that all officers, agents, and employees of the school faithfully discharge their duties, and the superintendent shall be held directly responsible to the board of trustees for the economy, efficiency, and success of the school's internal management.

(b) (Deleted by amendment, L. 2003, p. 1582, § 7, effective July 1, 2004.)

(2) Repealed.

(3) Publications of the school circulated in quantity outside of the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

**Source:** **L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 79:** (1)(b) amended, p. 1636, § 32, effective July 19. **L. 83:** (3) amended, p. 833, § 35, effective July 1. **L. 96:** (1)(a) amended, p. 1801, § 27, effective June 4; (2) repealed, p. 1235, § 74, effective August 7. **L. 2003:** (1) amended, p. 1582, § 7, effective July 1, 2004.

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996.

**22-80-106.5. Compensation of teachers.** (1) Except as otherwise provided in subsection (3) of this section, beginning with the budget year 1996-97 and for budget years thereafter, the teachers employed by the school shall be compensated in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy adopted pursuant to section 22-63-401, as of January 1 of the previous fiscal year, by resolution of the board of education of the school district within the boundaries of which the main campus of the school is located. Funding for the compensation of teachers employed by the school shall be included in the line item appropriation to the school in the general appropriation bill and shall not affect the amount of state funds distributed to the school district within the boundaries of which the main campus of the school is located.

(2) For purposes of this section, "teacher" includes any employee licensed as a teacher pursuant to section 22-60.5-201, as a special services provider pursuant to section 22-60.5-210, or as a principal pursuant to section 22-60.5-301.

(3) Notwithstanding the provisions of subsection (1) of this section, any teacher who, when compensated in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy, would receive less compensation than he or she received from the Colorado school for the deaf and the blind in the budget year 1995-96 shall continue receiving the amount he or she received in the budget year 1995-96

until compensation of that teacher in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy would result in an increase in compensation over the amount received in the budget year 1995-96.

(4) (Deleted by amendment, L. 2003, p. 1583, § 8, effective July 1, 2004.)

**Source:** L. 96: Entire section added, p. 1801, § 28, effective June 4. L. 2003: (1) and (4) amended, p. 1583, § 8, effective July 1, 2004.

## **22-80-107. Bond of superintendent - repeal. (Repealed)**

**Source:** L. 77: Entire article added, p. 1092, § 2, effective July 1. L. 2003: (2) added by revision, pp. 1583, 1586, §§ 9, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1583, 1586.)

**22-80-108. Interest in contracts - penalty.** Neither the board of trustees nor any treasurer, superintendent, or other officer or agent of the school shall be directly or indirectly interested in any contract or other agreement for building, repairing, furnishing, or supplying the school, and no drawbacks or secret discounts whatever shall be given to or received by any such person on account of any articles or materials furnished to or labor done for the school. Any person violating the provisions of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

**Source:** L. 77: Entire article added, p. 1092, § 2, effective July 1. L. 79: Entire section amended, p. 702, § 74, effective July 1; entire section amended, p. 1636, § 33, effective July 19. L. 89: Entire section amended, p. 843, § 108, effective July 1. L. 2002: Entire section amended, p. 1529, § 236, effective October 1. L. 2003: Entire section amended, p. 1583, § 10, effective July 1, 2004.

**Cross references:** (1) For other illegal conduct by public servants, see parts 3 and 4 of article 8 of title 18.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

**22-80-109. Who may be admitted.** (1) Every blind and every deaf citizen of the state of Colorado under twenty-one years of age is eligible to receive an education in the school, unless such person has a physical or mental condition which would render his or her instruction impractical, if such person meets enrollment criteria established by the board of trustees. Qualified applicants, who meet the enrollment criteria, shall be admitted at the request of either the applicant's school district of residence, parent, or guardian.

(2) All applicants above the age of twenty-one years may be admitted at the option of the board of trustees. For purposes of federal law, persons may be admitted pursuant to this section and qualify for federal educational assistance. The school may provide adult educational services and receive such federal moneys as are allowed under federal law.

**Source:** L. 77: Entire article added, p. 1092, § 2, effective July 1. L. 91: Entire section amended, p. 526, § 4, effective April 17. L. 2003: Entire section amended, p. 1584, § 11, effective July 1, 2004.

**22-80-110. Nonresident students - admission.** Applicants for admission to the school from other states, if within the ages prescribed by section 22-80-109, may be admitted upon payment to the superintendent of such a sum quarterly as the board of trustees determines, to be not less than the total cost per capita of the students for the year immediately preceding the year in which the application is made. A failure on the part of the person so admitted or of his or her parents, guardian, or friends to make such payments to the



superintendent shall be just cause for immediate dismissal of the student. No resident of another state or a territory shall be received or retained to the exclusion of any resident of the state of Colorado. The superintendent shall account for all moneys that may come into his or her hands by virtue of his or her office at each regular meeting of the board of trustees in an itemized statement, duly crediting the amounts to the persons from whom they are received.

**Source:** L. 77: Entire article added, p. 1092, § 2, effective July 1. L. 2003: Entire section amended, p. 1584, § 12, effective July 1, 2004.

#### **22-80-111. Counties to pay expense - repeal. (Repealed)**

**Source:** L. 77: Entire article added, p. 1092, § 2, effective July 1. L. 2003: (2) added by revision, pp. 1584, 1586, §§ 13, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1584, 1586.)

**22-80-112. Pupils subject to rules.** All pupils of the school are required to conform to all applicable rules of the board of trustees and the regulations and policies of the school, and any failure to comply with the same will subject the offender, at the option of the board of trustees, to a loss of the privileges of the school.

**Source:** L. 77: Entire article added, p. 1093, § 2, effective July 1. L. 2003: Entire section amended, p. 1585, § 14, effective July 1, 2004.

**22-80-113. Educational training - expenditures.** (1) The superintendent of the Colorado school for the deaf and the blind is authorized to expend any moneys necessary, out of the appropriation for the support of the Colorado school for the deaf and the blind, to provide for the educational training of eligible deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech who are residents of the state of Colorado in institutions located outside of the state of Colorado which are equipped to provide for the educational training of such students or by the employment of a skilled person, as a home teacher, trained in the work of teaching deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech; except that the compensation of any such skilled person as a home teacher shall not be greater, in any one instance, than the expense of the education of any such deaf-blind pupil or pupil who has a multiple physical disability of hearing, sight, and speech if resident in any named institution located outside of the state of Colorado.

(2) In each instance, the institution selected or the skilled person employed for the educational training of such deaf-blind student or student who has a multiple physical disability of hearing, sight, and speech shall be approved by the board of trustees.

(3) Such deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech who are unable to receive instruction in a special class in a public school may be provided an education in a special class at the Colorado school for the deaf and the blind if there are a sufficient number of such students to warrant the establishment of a class.

(4) No later than October 5 each year, the Colorado school for the deaf and the blind shall notify the department of education of the pupils' placement at the Colorado school for the deaf and the blind. The Colorado school for the deaf and the blind is entitled to receive, from the department of education, an amount equal to the state average per pupil revenues, as defined in section 22-54-103 (12), for the current fiscal year for those students in attendance. The Colorado school for the deaf and the blind shall bill the department of education for the applicable portion of such amount at the conclusion of each month during which such pupils continue to be placed at the Colorado school for the deaf and the blind.

**Source:** **L. 77:** Entire article added, p. 1093, § 2, effective July 1. **L. 88:** (4) amended, p. 820, § 28, effective May 24. **L. 90:** (4) amended, p. 1084, § 45, effective May 31. **L. 93:** (1) to (3) amended, p. 1652, § 52, effective July 1. **L. 94:** (4) amended, p. 821, § 46, effective April 27. **L. 2003:** (2) amended, p. 1585, § 15, effective July 1, 2004. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1915, § 44, effective June 10.

**22-80-114. Expenditures, how made.** Any moneys expended under authority of section 22-80-113 shall be expended under the direction and control of the superintendent, and the state treasurer is authorized, upon presentation of vouchers of the superintendent duly issued and certified as provided by law, to draw warrants in payment thereof.

**Source:** **L. 77:** Entire article added, p. 1093, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1585, § 16, effective July 1, 2004.

**22-80-115. Readers for blind - expenses of deaf students. (Repealed)**

**Source:** **L. 77:** Entire article added, p. 1094, § 2, effective July 1. **L. 91:** Entire section repealed, p. 526, § 5, effective April 17.

**22-80-116. Programs for parents.** In furtherance of the objectives of the school, the board of trustees, with the aid of the superintendent, may make such bylaws as are necessary to provide a program of instruction in understanding the needs, problems, and education of the deaf and the blind for parents of deaf and blind children who may attend any of the schools in Colorado. In addition to other provisions, the board of trustees may provide for the cooperation of the school with other interested state agencies in carrying out this program.

**Source:** **L. 77:** Entire article added, p. 1094, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1585, § 17, effective July 1, 2004.

**22-80-117. Study group - creation - appointments - duties - report. (Repealed)**

**Source:** **L. 91:** Entire section added, p. 526, § 6, effective April 17; entire section repealed, p. 526, § 6, effective January 1, 1992.

**22-80-118. Provide assistance - public education - American sign language.**

(1) The school may, upon request, provide assistance, advice, and guidance to:

(a) The Colorado commission on higher education regarding the adoption of the policies and procedures involving American sign language described in section 23-1-128 (3), C.R.S.;

(b) Higher education institutions regarding the development, establishment, and teaching of American sign language courses; and

(c) (Deleted by amendment, L. 2005, p. 767, § 33, effective June 1, 2005.)

(d) School district boards of education in implementing American sign language policies described in section 22-32-133.

**Source:** **L. 2004:** Entire section added, p. 256, § 3, effective August 4. **L. 2005:** (1)(b) and (1)(c) amended, p. 767, § 33, effective June 1.

**22-80-119. Standardized immunization policy required.** On or before July 1, 2011, the school shall annually provide to the parent or legal guardian of each student enrolled in the school the standardized immunization document developed and updated by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For the purposes of this section, the school shall have the discretion to determine the method of distribution of the standardized immunization document, including but not limited to



providing a copy to parents and legal guardians, providing the standardized immunization document in a newsletter or handbook, or providing to parents and legal guardians an electronic copy of the standardized immunization document. For purposes of this section, solely posting a copy of the standardized immunization document on a web site or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, the school is encouraged to post the standardized immunization document on its web site.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 192, § 4, effective August 11; entire section amended, (HB 10-1422), ch. 419, p. 2128, § 191, effective August 11.

ARTICLE 81

Pre-K-16 Mathematics, Science,  
and Technology Improvement

PART 1		22-81-202.	Definitions.
PRE-K-16 MATHEMATICS, SCIENCE, AND TECHNOLOGY EDUCATION STRATEGIC PLAN		22-81-203.	Science and technology educa- tion center grant program - created - applications - awards.
		22-81-204.	Science and technology educa- tion center grants advisory board - created - duties - re- peal. (Repealed)
22-81-101.	Short title.	22-81-205.	State board - rules - donations.
22-81-102.	Legislative declaration.		
22-81-103.	Definitions.	22-81-206.	Science and technology educa- tion fund - creation.
22-81-104.	Pre-K-16 mathematics, science, and technology education strategic plan.		
PART 2			
SCIENCE AND TECHNOLOGY EDUCATION CENTERS			
22-81-201.	Legislative declaration.		

PART 1

PRE-K-16 MATHEMATICS, SCIENCE, AND  
TECHNOLOGY EDUCATION STRATEGIC PLAN

**22-81-101. Short title.** This part 1 shall be known and may be cited as the “Pre-K-16 Mathematics, Science, and Technology Improvement Act of 1990”.

**Source: L. 90:** Entire article added, p. 1133, § 1, effective May 23. **L. 91:** Entire section amended, p. 517, § 2, effective June 5. **L. 2001:** Entire section amended, p. 1082, § 3, effective June 5.

**Cross references:** For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-102. Legislative declaration.** The Colorado general assembly declares that, as a result of several years of active investigation and studies by groups such as the Colorado alliance for science, the Colorado teachers of mathematics, and industry-based groups, the general assembly recognizes that there exist in the state of Colorado unmet educational needs in the areas of mathematics, science, and the use of technology. The state of Colorado has the responsibility to provide equal opportunity in mathematics, science, and the use of technology to all Pre-K-16 students. The state has the responsibility to provide assistance

to school districts that either have insufficient faculty resources to offer a full complement of mathematics, science courses, and the use of technology, including opportunities for advanced study, or have insufficient numbers of students to offer such courses. The state has the responsibility to assure that Pre-K-16 students are provided a curriculum of mathematics, science, and the use of technology that is consistent with contemporary standards. The state also has the responsibility to improve teacher training in mathematics, science, and technology. The general assembly further finds that increasing the mathematics, science, and technology educational opportunities for Pre-K-16 students and teachers fosters an educational system whereby the students and teachers of our state can acquire the needed problem-solving skills and the critical and creative thinking skills necessary for productive participation in an increasingly technological age. In order to meet the responsibilities described in this section, and to begin to improve the broader goals of the telecommunications advisory commission recommendations, the general assembly hereby finds that improved access to and use of telecommunications facilities is necessary.

**Source:** L. 90: Entire article added, p. 1133, § 1, effective May 23. L. 91: Entire section amended, p. 517, § 3, effective June 5.

**22-81-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Community resources" means the educational resources that can be found outside of the classroom, including but not limited to local industries, government agencies, museums, public telecommunications stations, institutions of higher education, and professional societies.

(2) "Course materials" means all materials associated with a course including, but not limited to, textbooks, software, and visual aids.

(3) "Distance learning" means the delivery of live instruction to students who are physically located at a distance from the instructor, as well as the taped delivery of instruction at a remote site, such as delayed tape or computer software.

(4) "Instructional design" means the systematic design, development, and validation of instruction.

(5) "Teacher training" means in-service, recertification, and graduate course or degree program training.

(6) "Technology" means the design or use of such things as computers, telecommunications devices and networks, or multi-media techniques for teaching or use in student's later careers.

**Source:** L. 90: Entire article added, p. 1134, § 1, effective May 23. L. 2001: IP amended, p. 1082, § 4, effective June 5.

**Cross references:** For the legislative declaration contained in the 2001 act amending the introductory portion to this section, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-104. Pre-K-16 mathematics, science, and technology education strategic plan.** (1) The department of education and the Colorado commission on higher education, in cooperation and consultation with the telecommunications advisory commission, business, industry, and professionals in the fields of mathematics, science, technology, and engineering, shall develop a plan for improving Pre-K-16 mathematics, science, and technology education in the state of Colorado through the use of telecommunications networks and facilities. The department of education and the Colorado commission on higher education shall use existing resources and personnel to develop the plan and may collaborate with interested parties, including, but not limited to, those described in this subsection (1).

(2) At a minimum, the plan shall provide direction for program development including:

(a) Identification of curricular goals, which goals reflect the systemic change in the mathematics, science, and technology education curriculum so as to be consistent with the contemporary understanding and emerging patterns of content and pedagogy. Such goals



shall also reflect current guidelines and standards, such as those defined by the national council of teachers of mathematics, the American association for the advancement of science, and the national science teachers association.

(b) Identification of essential teacher characteristics;

(c) A statement of desired levels of mathematics, science, and technology achievement by students;

(d) A description of recommended courses of action to improve educational programs, practices, and service;

(e) The improvement of access and availability of mathematics, science, and technology courses, especially for rural school districts and particularly to those groups which are traditionally underrepresented. The plan shall include goals for using telecommunications facilities as recommended by the telecommunications advisory commission.

(f) Pre-K-16 teacher training in mathematics, science, and technology; and

(g) Cost estimates.

(3) The plan should provide a framework that enables the teachers, school districts, and institutions of higher education to solve the stated problems as they deem appropriate. The plan should provide mechanisms and incentives to:

(a) Course providers and receivers at the Pre-K-16 and postsecondary levels to design and implement new curricula and to develop new course materials;

(b) Course providers and receivers for leveraging distance learning technologies and applying distance learning instructional design techniques, taking into consideration the work of the telecommunications advisory commission;

(c) Pre-K-16 teachers for taking graduate mathematics, science, and technology courses and degree programs. Such incentives may include a tuition matching program.

(d) Involve appropriate Colorado state agencies, federal agencies, professional organizations, public television stations, and business and industry in the development of the strategic plan; and

(e) Business, industry, and individuals for volunteering their time and community resources.

(4) The plan shall provide a mechanism for incorporating the cost for accomplishing these goals into the ongoing operating budget beginning in 1991.

**Source: L. 90:** Entire article added, p. 1134, § 1, effective May 23. **L. 91:** (1), (2)(e), (2)(f), (3)(a), (3)(c), and (3)(d) amended, p. 518, § 4, effective June 5.

## PART 2

### SCIENCE AND TECHNOLOGY EDUCATION CENTERS

**Cross references:** For the legislative declaration contained in the 2001 act enacting this part 2, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-201. Legislative declaration.** The general assembly hereby finds that one of the greatest challenges facing schools and teachers is determining how to stimulate and engage students so that they actively seek learning experiences, especially in the areas of math and science and technology. The general assembly finds that too few students are interested in pursuing careers in math and science and technology and that this lack of interest has the potential for creating a shortage of persons who are interested in or capable of discovering the answers to the questions of increasing population, decreasing availability of resources, increasing loss of natural habitats, and decreasing effectiveness of antibiotics and other issues that challenge society's future. The general assembly further recognizes the inherent excitement of space exploration and the opportunity it provides for integrating math and science skills and the use of technology into real-life applications and stimulating students' natural curiosity and desire to learn. The general assembly therefore finds that facilitating the creation of opportunities for students to participate in science and technology education activities that center on simulated space exploration activities promotes the best interests of both students and the state.

**Source: L. 2001:** Entire part added, p. 1077, § 2, effective June 5.

**22-81-202. Definitions.** As used in this part 2, unless the context otherwise requires:

- (1) Repealed.
- (2) "Department" means the state department of education created in section 24-1-115, C.R.S.
- (3) "Grant program" means the science and technology education center grant program created in section 22-81-203.
- (4) "Science and technology education" means educational activities that integrate and stimulate learning, particularly in the areas of math and science, through space flight simulations or through other simulations related to astronomy or space exploration.
- (5) "Science and technology education center" means a nonprofit center operated by any person or entity or group of persons or entities, including but not limited to any nonprofit corporation that promotes aviation and aerospace education, that provides science and technology education activities, materials, and educational workshops for students and their teachers.
- (6) "State board" means the state board of education created in section 1 of article IX of the state constitution.

**Source:** L. 2001: Entire part added, p. 1078, § 2, effective June 5. L. 2011: (1) repealed, (SB 11-106), ch. 45, p. 116, § 3, effective March 21.

**22-81-203. Science and technology education center grant program - created - applications - awards.** (1) There is hereby created the science and technology education center grant program to provide development and operating moneys in the form of matching funds for existing or proposed nonprofit science and technology education centers. At a minimum, each science and technology education center that receives a grant shall provide science and technology education activities to students enrolled in public schools in the state and materials and educational workshops to teachers employed by school districts. Any science and technology education center that receives a grant may also provide science and technology education activities, materials, and educational workshops to other persons within the state.

(2) (a) Beginning on or before January 2, 2002, the state board shall, subject to available appropriations, annually award one or more science and technology education center grants for the development and operation of science and technology education centers.

(b) An existing science and technology education center or a person or entity or group of persons or entities proposing the establishment of a science and technology education center may apply for a science and technology education center grant pursuant to procedures and time lines specified by rule of the state board. At a minimum, the application shall include:

- (I) The actual or proposed location of the science and technology education center;
  - (II) Evidence that establishment and ongoing operation of the science and technology education center has the support of the education providers and businesses within the community in which the science and technology education center is or will be located;
  - (III) Evidence that the proposed or operating science and technology education center has the endorsement of a national science and technology education program that has been in operation in the United States for at least five years;
  - (IV) Evidence that the proposed or operating science and technology education center has secured the use of a facility;
  - (V) A description of the equipment and technology that is or will be provided and the activities and range of programs that are or will be offered by the science and technology education center;
  - (VI) Evidence of the receipt of, or a commitment for, the matching funds necessary to obtain moneys through the grant program under the applicant's plan to obtain such matching funds;
  - (VII) Any other information specified by rule of the state board.
- (3) (a) The state board, in selecting one or more science and technology education centers for receipt of a grant, shall consider:



(I) Whether the science and technology education center is or will be located in an area of the state that is easily accessible to a large number of students; and

(II) The facility, equipment, and technology that are or will be provided and the activities and range of programs that are or will be offered by the science and technology education center.

(b) The state board may not award a science and technology education center grant to any applicant that fails to provide the information specified in subparagraphs (II) and (III) of paragraph (b) of subsection (2) of this section.

(4) (a) A science and technology education center grant shall be payable from moneys appropriated to the science and technology education fund created in section 22-81-206.

(b) The state board shall specify the amount to be awarded to each science and technology education center that is selected to receive a grant. The amount awarded to a new science and technology education center for start-up costs shall not exceed five hundred thousand dollars for one fiscal year and may not be renewed. The amount awarded to an operating science and technology education center for operating costs shall not exceed two hundred thousand dollars for one fiscal year.

(c) Each science and technology education center that receives a grant pursuant to the grant program shall demonstrate, prior to receiving any actual moneys, that the center has received, or has a written commitment for, matching funds from other public or private sources in the amount of a dollar-for-dollar match with the amount of the grant.

**Source: L. 2001:** Entire part added, p. 1078, § 2, effective June 5. **L. 2011:** (2)(a), (3)(b), and (4)(b) amended, (SB 11-106), ch. 45, p. 116, § 4, effective March 21.

**22-81-204. Science and technology education center grants advisory board - created - duties - repeal. (Repealed)**

**Source: L. 2001:** Entire part added, p. 1080, § 2, effective June 5. **L. 2007:** (2) amended, p. 180, § 11, effective March 22. **L. 2011:** Entire section repealed, (SB 11-106), ch. 45, p. 116, § 1, effective March 21.

**22-81-205. State board - rules - donations.** (1) The state board, pursuant to article 4 of title 24, C.R.S., shall promulgate such rules as are required in this part 2 and such additional rules as may be required for implementation of the grant program.

(2) The department shall solicit such public and private gifts, grants, and donations as may be available to fund the grant program. Any moneys so received shall be credited to the science and technology education fund created in section 22-81-206.

**Source: L. 2001:** Entire part added, p. 1081, § 2, effective June 5.

**22-81-206. Science and technology education fund - creation.** (1) There is hereby created in the state treasury the science and technology education fund, referred to in this section as the “fund”, for payment of science and technology education center grants awarded pursuant to section 22-81-203. The fund shall consist of such moneys as may be appropriated thereto by the general assembly and such moneys as may be credited thereto pursuant to section 22-81-205 (2). Moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes specified in this part 2. The department may expend up to two percent of the moneys annually appropriated to the fund to offset the costs incurred in implementing the grant program. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Except as otherwise provided in subsection (2) of this section, at the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) (a) On March 5, 2003, the state treasurer shall transfer the balance of moneys in the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) On June 30, 2011, the state treasurer shall transfer the balance of moneys in the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** **L. 2001:** Entire part added, p. 1081, § 2, effective June 5. **L. 2003:** Entire section amended, p. 521, § 12, effective March 5. **L. 2011:** Entire section amended, (SB 11-218), ch. 151, p. 526, § 5, effective May 5.

ARTICLE 81.5

Colorado Information Technology  
Education Grant Program

22-81.5-101.	Short title.	22-81.5-105.	Information technology edu-
22-81.5-102.	Legislative declaration.		cation grants - applications -
22-81.5-103.	Definitions.		criteria for awards.
22-81.5-104.	Colorado information technol-	22-81.5-106.	Reports.
	ogy education grant pro-	22-81.5-107.	Information technology edu-
	gram - created - rules.		cation fund - created.

**22-81.5-101. Short title.** This article shall be known and may be cited as the “Colorado Information Technology Education Act”.

**Source:** **L. 2001:** Entire article added, p. 834, § 1, effective June 1.

**22-81.5-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) The use of information technology and digital electronics has achieved such a high level of pervasiveness in society that any person who is unfamiliar with or lacks knowledge in the use of technological or digital equipment or systems is at a distinct disadvantage both economically and in terms of available career opportunities;

(b) There is a growing likelihood of the creation of a “digital divide”, separating children whose socioeconomic situation limits their access to technological or digital equipment or systems from those children who use such equipment or systems on a regular basis;

(c) Creation of a digital divide may result in further suppressing the ability of children who are economically disadvantaged to improve their status and position in society, compounding and perpetuating the existing cycle of poverty experienced by some persons;

(d) Greater integration of information technology education into the public school curriculum will help combat the growing digital divide and provide technological and digital access for students who do not have access to such technology in their homes;

(e) Greater integration of information technology education into the public school curriculum will work to the benefit of all students, regardless of whether they anticipate going on to postsecondary studies after graduation or immediately embarking on a career;

(f) The field of high technology design, creation, maintenance, and application is one of the fastest growing industries in the United States;

(g) Colorado, due to the high concentration of information technology industry in the state, has experienced and continues to experience a shortage of well-educated, well-prepared persons in the information technology field;

(h) It is therefore appropriate and in the best interests of the students and businesses in Colorado to provide financial incentives to assist public schools in achieving a greater integration of information technology education in the ninth-grade through twelfth-grade curriculum.

(2) It is the intent of the general assembly that, for purposes of this article, any school that provides educational services to students who are placed in an eligible facility or state-operated program and receives a portion of the state average per pupil revenues shall be considered eligible under this article.



**Source:** L. 2001: Entire article added, p. 834, § 1, effective June 1. L. 2010: (2) amended, (HB 10-1013), ch. 399, p. 1915, § 45, effective June 10.

**22-81.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education created in section 24-1-115, C.R.S.

(2) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(3) "Grant program" means the Colorado information technology education grant program created in section 22-81.5-104.

(4) "Information technology education" means education in the development, design, use, maintenance, repair, and application of information technology systems or equipment, including but not limited to computers, the internet, telecommunications devices and networks, and multi-media techniques.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source:** L. 2001: Entire article added, p. 835, § 1, effective June 1. L. 2008: (2) amended, p. 1406, § 54, effective May 27.

**22-81.5-104. Colorado information technology education grant program - created - rules.** (1) There is hereby created the Colorado information technology education grant program to provide moneys to school districts, charter schools, and facility schools to use in integrating information technology education into the public school curriculum for grades nine through twelve. The department shall administer the grant program through the acceptance, review, and recommendation of applications submitted pursuant to section 22-81.5-105. The state board shall select the grant recipients based on the department's recommendations.

(2) Grants awarded through the grant program shall continue for two fiscal years and may be renewed as provided by rule of the state board. Grants awarded through the grant program shall be paid out of any moneys appropriated or credited to the information technology education fund created in section 22-81.5-107. A school district, charter school, or facility school shall use any moneys obtained through the grant program to integrate information technology education into the ninth-grade through twelfth-grade curriculum. In the case of a school district, such integration shall be accomplished in one or more public schools in the district. It is the intent of the general assembly to allow flexibility to school districts, charter schools, and facility schools in determining how to integrate information technology into the curriculum and the degree of integration. The school district, charter school, or facility school may contract with one or more private entities for assistance in integrating information technology education into the curriculum. In addition, school districts, charter schools, and facility schools are encouraged to partner with businesses for assistance in integrating information technology education into the curriculum.

(3) The state board shall adopt rules for the administration and implementation of the grant program as provided in this article. The first grants shall be awarded through the grant program for the 2002-03 academic year, so long as moneys are appropriated to the information technology education fund for implementation of the grant program. Grants shall be awarded annually thereafter, based on available appropriations.

**Source:** L. 2001: Entire article added, p. 836, § 1, effective June 1.

**22-81.5-105. Information technology education grants - applications - criteria for awards.** (1) Any school district, charter school, or facility school that seeks to participate in the grant program shall submit an application to the department in the form and according to deadlines established by rule of the state board. The application shall include the following information:

(a) If the applicant is a school district, the names of the schools that will receive the benefits of the grant;

(b) The current level of information technology education integration at the charter school, facility school, or recipient schools;

(c) The school district's, charter school's, or facility school's plan for integrating information technology education into the ninth-grade through twelfth-grade curriculum, including any specific method or program to be used, and any entities with whom the school district, charter school, or facility school plans to contract or cooperate in achieving the integration;

(d) The specific, measurable goals to be achieved through the integration of information technology education into the curriculum, a deadline for achieving those goals, and a proposed method of measuring whether the goals were achieved;

(e) Any businesses with which the school district, the charter school, the facility school, or the recipient school has partnered to improve the availability and integration of information technology education within the curriculum;

(f) Any other information that may be specified by rule of the state board.

(2) In recommending and awarding grants through the program, the department and the state board shall consider the following criteria:

(a) The degree to which information technology education is already integrated into the curriculum of the applying school district, charter school, or facility school to ensure that those school districts, charter schools, and facility schools with the least degree of integration receive the grants first;

(b) The degree to which the applying school district's, charter school's, or facility school's proposed plan for using the grant moneys will result in integration of information technology education into the curriculum and the scope of the information technology education to be integrated;

(c) Any other financial resources available to the applying school district, charter school, or facility school for integrating information technology education into the curriculum;

(d) The degree to which the applying school district, charter school, facility school, or proposed recipient school is cooperating or partnering with businesses to improve the availability and integration of information technology education in the curriculum. The department and the state board shall apply this criteria with the goal of encouraging such partnerships.

(e) The validity, clarity, and measurability of the goals established by the applying school district, charter school, or facility school and the validity of the proposed methods for measuring achievement of the goals;

(f) Any other criteria established by rule of the state board to ensure that grants are awarded to school districts, charter schools, and facility schools that demonstrate the greatest need and the most valid, effective plan for integrating information technology education into the curriculum.

(3) In awarding grants through the grant program, the state board shall ensure, to the extent possible, that the grants are awarded to school districts, charter schools, and facility schools in all areas of the state.

(4) If a facility school receives one or more grants pursuant to this section and the facility school subsequently ceases operations, any hardware or software purchased using the grant moneys received shall revert to the school district in which the facility school was located.

(5) Nothing in this article shall be construed to limit or otherwise affect any school district's ability to enter into an agreement with or receive funds from any private entity.



**22-81.5-106. Reports.** (1) Each school district, charter school, and facility school that receives a grant through the grant program shall, by the close of each academic year for which the grant was awarded, submit to the department a report specifying the following information:

- (a) The manner in which the grant moneys were used;
  - (b) The progress made toward achieving the goals specified in the grant recipient's application;
  - (c) Any additional entities and businesses with whom the grant recipient has contracted or partnered with the goal of achieving greater integration of information technology education in the ninth-grade through twelfth-grade curriculum;
  - (d) The recipient school district's, charter school's, or facility school's plan for continuing the integration of information technology education into the curriculum, regardless of whether the grant is renewed;
  - (e) Any other information specified by rule of the state board.
- (2) Repealed.
- (3) Notwithstanding the provisions of subsection (2) of this section, the department need not submit a report for any academic year in which no grants are made through the grant program.

**Source: L. 2001:** Entire article added, p. 838, § 1, effective June 1. **L. 2004:** (2) repealed, p. 583, § 1, effective August 4.

**22-81.5-107. Information technology education fund - created.** (1) There is hereby created in the state treasury the information technology education fund, referred to in this section as the "fund", for the purpose of funding information technology education grants through the grant program. The fund shall consist of all moneys appropriated to the fund by the general assembly and any gifts, grants, donations, and other moneys received by the department for implementation of the grant program. The moneys in the fund shall be subject to annual appropriation. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert or be credited or transferred to the general fund nor be transferred to any other fund. Any interest derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be credited to the general fund.

(2) The department shall seek and apply for any available grant moneys for implementation of the grant program. Any moneys so obtained shall be credited to the fund for use in implementing the grant program. The department may retain up to one percent of the moneys annually appropriated to the fund to offset the actual administrative costs incurred in administering the grant program.

**Source: L. 2001:** Entire article added, p. 839, § 1, effective June 1.

## ARTICLE 82

### Public School Medical Assistance Pilot Program

#### 22-82-101 to 22-82-103. (Repealed)

**Source: L. 97:** Entire article repealed, p. 1139, § 9, effective May 28.

**Editor's note:** This article was added in 1990. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**ARTICLE 82.3****Healthy Choices Dropout Prevention  
Pilot Program**

22-82.3-101.	Definitions.	22-82.3-105.	Minimum standards for eligibility.
22-82.3-102.	Healthy choices dropout prevention pilot program - creation.	22-82.3-106.	Permissible uses of grants.
22-82.3-103.	Program application process - standard application form - selection of grant recipients.	22-82.3-107.	Healthy choices dropout prevention pilot program fund - creation - administrative costs.
22-82.3-104.	Eligibility for grants - grant amounts - selection criteria and procedures.	22-82.3-108.	Reports.
		22-82.3-109.	Program - rules.
		22-82.3-110.	Repeal of article.

**22-82.3-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "At-risk school" means a school that enrolls students in the sixth, seventh, and eighth grades and meets the following criteria:

(a) (I) The annual student absentee rate for the school averages at least fifteen days per student; and

(II) The school is located in a school district in which at least thirty-five percent of students failed to graduate from high school in the academic year preceding application for the program, as determined by the department; or

(b) (I) At least sixty percent of the students enrolled in the school are eligible for free or reduced-cost lunch under the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(II) The annual student absentee rate for the school averages at least twelve days per student; and

(III) The school is located in a school district in which at least thirty percent of students failed to graduate from high school in the academic year preceding application for the program, as determined by the department.

(2) "Commissioner" means the commissioner of education.

(3) "Coordinated school health team" means a group of persons who work collaboratively to coordinate programs, services, and resources relating to the health of students in a school.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "Fund" means the healthy choices dropout prevention pilot program fund created pursuant to section 22-82.3-107.

(6) "Mental health counselor" means a person who:

(a) Possesses a degree or license in recognition of his or her completion of a program of specialized training in mental health counseling; or

(b) Satisfies the minimum requirements established by rules promulgated by the state board pursuant to section 22-82.3-109 (1) (d).

(7) "Professional nutritionist or dietician" means a person who:

(a) Possesses a degree or license in recognition of his or her completion of a program of specialized training in nutrition or diet; or

(b) Satisfies the minimum requirements established by rules promulgated by the state board pursuant to section 22-82.3-109 (1) (c).

(8) "Program" means the healthy choices dropout prevention pilot program created in section 22-82.3-102.

(9) "Recipient school" means an at-risk school that the commissioner or his or her designee selects to receive a grant from the program pursuant to section 22-82.3-103 (4).

(10) "School" means a public school of a school district, including a charter school. "School" does not mean an institute charter school as defined in section 22-30.5-502 (6).



(11) “School nurse” means a person who is licensed to practice as a nurse pursuant to the provisions of article 38 of title 12, C.R.S., and is employed as a nurse by a school or school district.

(12) “State board” means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1323, § 1, effective August 5.

**22-82.3-102. Healthy choices dropout prevention pilot program - creation.** There is hereby created in the department the healthy choices dropout prevention pilot program. The objective of the program is to provide services to enhance the academic achievement and physical and mental health of adolescent students and thereby improve student attendance and reduce the number of students who fail to graduate from high school. The department shall administer the program in accordance with the provisions of this article.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1325, § 1, effective August 5.

**22-82.3-103. Program application process - standard application form - selection of grant recipients.** (1) A school district that includes one or more at-risk schools may apply on behalf of one or more of the at-risk schools of the school district. In applying for a grant from the program, a school district shall conform to the procedures established by rules promulgated by the state board pursuant to section 22-82.3-109 (1) (a).

(2) In accordance with the rules promulgated by the state board pursuant to section 22-82.3-109 (1) (b), the department shall develop a standard application form for a school district to use in applying on behalf of an at-risk school to receive a grant from the program. The department shall make the standard application form electronically available to the public.

(3) Each school district that applies on behalf of an at-risk school for a grant from the program shall use the standard application form developed by the department pursuant to subsection (2) of this section. In submitting the standard application form, the school district shall provide all the information requested on the form as well as any other information that the department may request.

(4) Upon receiving an application from a school district, the department shall submit the application to the commissioner. The commissioner or his or her designee shall review each application and, subject to the receipt of sufficient gifts, grants, or donations pursuant to section 22-82.3-107 (4), determine and announce on or before June 1, 2010, and on or before June 1 each year thereafter, which at-risk schools shall receive grants and the amount of the grant that each recipient school shall receive. Pursuant to this determination, the department shall transfer the grant to the recipient school district, and, except as permitted by section 22-82.3-106 (2) or (3), the school district shall distribute the entire amount of the grant to the recipient school.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1325, § 1, effective August 5.

**22-82.3-104. Eligibility for grants - grant amounts - selection criteria and procedures.** (1) The commissioner or his or her designee shall award grants from the program only to schools that satisfy the minimum standards described in section 22-82.3-105.

(2) In selecting schools to receive grants from the program and in determining the amount of the grant to be awarded to each recipient school, the commissioner or his or her designee shall use the criteria and procedures established by rules promulgated by the state board pursuant to section 22-82.3-109 (2).

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1325, § 1, effective August 5.

**22-82.3-105. Minimum standards for eligibility.** (1) To be eligible to receive a grant from the program, a school shall satisfy the minimum standards described in subsections (2) and (3) of this section. The applicability of the standards described in subsections (2) and (3) of this section is limited to their use in determining eligibility for a grant from the program. A provision of subsection (2) or (3) of this section shall not be interpreted to require a school to adopt any standard other than for the purpose of making the school eligible to receive a grant from the program.

(2) Each recipient school shall be an at-risk school.

(3) Each recipient school shall have a coordinated school health team.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1326, § 1, effective August 5.

**22-82.3-106. Permissible uses of grants.** (1) Except as described in subsections (2) and (3) of this section, a recipient school shall use the grant moneys received from the program only to provide activities to students in the sixth, seventh, and eighth grades. A recipient school shall provide the activities during times outside of the regular school day, and the activities shall include the following:

(a) Opportunities for physical exercise;

(b) Academic assistance, including tutorial services in reading, writing, mathematics, and science;

(c) Nutrition counseling, which shall be provided by a professional nutritionist or dietician and include communication with students' parents regarding techniques for healthy preparation of meals;

(d) Mental health counseling provided by a professional mental health counselor; and

(e) Health education provided by a school nurse or other professional health educator.

(2) A recipient school or a school district of a recipient school may use the grant moneys received from the program to gather, record, and assemble data for the purpose of preparing the reports described in section 22-82.3-108 (2).

(3) A recipient school or a school district of a recipient school may use the grant moneys received from the program to contract with one or more private entities for the provision of one or more of the services described in subsection (1) of this section.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1326, § 1, effective August 5. **L. 2010:** (2) amended, (HB 10-1422), ch. 419, p. 2079, § 50, effective August 11.

**22-82.3-107. Healthy choices dropout prevention pilot program fund - creation - administrative costs.** (1) There is hereby created in the state treasury the healthy choices dropout prevention pilot program fund. The fund shall consist of:

(a) Any gifts, grants, or donations received by the department for the fund pursuant to subsection (4) of this section; and

(b) Any other moneys that the department may direct to the fund pursuant to subsection (5) of this section.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program pursuant to the provisions of this article. Of the moneys annually appropriated from the fund, the department may expend no more than two percent to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article.

(3) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund; except that all unexpended and unencumbered moneys remaining in the fund as of June 30, 2019, shall be transferred to the general fund.



(4) The department is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this article; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(5) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1327, § 1, effective August 5.

**22-82.3-108. Reports.** (1) Not later than July 30, 2015, and not later than July 30 each year thereafter, each school district that includes an at-risk school that received a grant from the program during the preceding fiscal year shall prepare and submit to the department a report that describes the use of the grant moneys.

(2) (a) Not later than January 30, 2016, and not later than January 30 each year thereafter, the department shall prepare and submit to the education and the health and human services committees of the house of representatives and the senate, or any successor committees, a report that describes the activities carried out under this article and that evaluates the effectiveness of the program.

(b) The report prepared by the department pursuant to paragraph (a) of this subsection (2) shall, at a minimum, include the following:

(I) The total number of at-risk schools that received moneys awarded as grants under the program;

(II) The amount of moneys awarded to each at-risk school that received a grant under the program;

(III) Information demonstrating the department's compliance with the provisions of this article and any rules promulgated by the state board pursuant to section 22-82.3-109; and

(IV) Statistical evidence or other information to assist the committees in evaluating the effectiveness of the program, with attention given to the extent to which the program achieved the objectives of the program as described in section 22-82.3-102. The statistical evidence or other information shall, at a minimum, include data indicating the extent to which the program has improved the academic achievement, physical and mental health, attendance, and graduation rates of students in at-risk schools that received grant moneys under the program.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1327, § 1, effective August 5.

**22-82.3-109. Program - rules.** (1) The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing policies and procedures for the administration of the program, including but not limited to:

(a) Procedures by which a school district may apply for a grant from the program on behalf of an at-risk school pursuant to section 22-82.3-103 (1);

(b) Minimum requirements for the standard application form developed by the department pursuant to section 22-82.3-103 (2). At a minimum, each application submitted to the department by a school district on behalf of an at-risk school shall include:

(I) Information that is sufficient to demonstrate that the school is an at-risk school;

(II) A written confirmation that the at-risk school for which the school district is applying for a grant from the program has satisfied the minimum standards described in section 22-82.3-105, which confirmation shall be signed by:

(A) The school district's director of food and nutrition, if any;

(B) The school district's superintendent; and

**22-82.3-105. Minimum standards for eligibility.** (1) To be eligible to receive a grant from the program, a school shall satisfy the minimum standards described in subsections (2) and (3) of this section. The applicability of the standards described in subsections (2) and (3) of this section is limited to their use in determining eligibility for a grant from the program. A provision of subsection (2) or (3) of this section shall not be interpreted to require a school to adopt any standard other than for the purpose of making the school eligible to receive a grant from the program.

- (2) Each recipient school shall be an at-risk school.
- (3) Each recipient school shall have a coordinated school health team.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1326, § 1, effective August 5.

**22-82.3-106. Permissible uses of grants.** (1) Except as described in subsections (2) and (3) of this section, a recipient school shall use the grant moneys received from the program only to provide activities to students in the sixth, seventh, and eighth grades. A recipient school shall provide the activities during times outside of the regular school day, and the activities shall include the following:

- (a) Opportunities for physical exercise;
  - (b) Academic assistance, including tutorial services in reading, writing, mathematics, and science;
  - (c) Nutrition counseling, which shall be provided by a professional nutritionist or dietician and include communication with students' parents regarding techniques for healthy preparation of meals;
  - (d) Mental health counseling provided by a professional mental health counselor; and
  - (e) Health education provided by a school nurse or other professional health educator.
- (2) A recipient school or a school district of a recipient school may use the grant moneys received from the program to gather, record, and assemble data for the purpose of preparing the reports described in section 22-82.3-108 (2).
- (3) A recipient school or a school district of a recipient school may use the grant moneys received from the program to contract with one or more private entities for the provision of one or more of the services described in subsection (1) of this section.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1326, § 1, effective August 5. **L. 2010:** (2) amended, (HB 10-1422), ch. 419, p. 2079, § 50, effective August 11.

**22-82.3-107. Healthy choices dropout prevention pilot program fund - creation - administrative costs.** (1) There is hereby created in the state treasury the healthy choices dropout prevention pilot program fund. The fund shall consist of:

- (a) Any gifts, grants, or donations received by the department for the fund pursuant to subsection (4) of this section; and
  - (b) Any other moneys that the department may direct to the fund pursuant to subsection (5) of this section.
- (2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program pursuant to the provisions of this article. Of the moneys annually appropriated from the fund, the department may expend no more than two percent to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article.
- (3) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund; except that all unexpended and unencumbered moneys remaining in the fund as of June 30, 2019, shall be transferred to the general fund.



(4) The department is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this article; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(5) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1327, § 1, effective August 5.

**22-82.3-108. Reports.** (1) Not later than July 30, 2015, and not later than July 30 each year thereafter, each school district that includes an at-risk school that received a grant from the program during the preceding fiscal year shall prepare and submit to the department a report that describes the use of the grant moneys.

(2) (a) Not later than January 30, 2016, and not later than January 30 each year thereafter, the department shall prepare and submit to the education and the health and human services committees of the house of representatives and the senate, or any successor committees, a report that describes the activities carried out under this article and that evaluates the effectiveness of the program.

(b) The report prepared by the department pursuant to paragraph (a) of this subsection (2) shall, at a minimum, include the following:

(I) The total number of at-risk schools that received moneys awarded as grants under the program;

(II) The amount of moneys awarded to each at-risk school that received a grant under the program;

(III) Information demonstrating the department's compliance with the provisions of this article and any rules promulgated by the state board pursuant to section 22-82.3-109; and

(IV) Statistical evidence or other information to assist the committees in evaluating the effectiveness of the program, with attention given to the extent to which the program achieved the objectives of the program as described in section 22-82.3-102. The statistical evidence or other information shall, at a minimum, include data indicating the extent to which the program has improved the academic achievement, physical and mental health, attendance, and graduation rates of students in at-risk schools that received grant moneys under the program.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1327, § 1, effective August 5.

**22-82.3-109. Program - rules.** (1) The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing policies and procedures for the administration of the program, including but not limited to:

(a) Procedures by which a school district may apply for a grant from the program on behalf of an at-risk school pursuant to section 22-82.3-103 (1);

(b) Minimum requirements for the standard application form developed by the department pursuant to section 22-82.3-103 (2). At a minimum, each application submitted to the department by a school district on behalf of an at-risk school shall include:

(I) Information that is sufficient to demonstrate that the school is an at-risk school;

(II) A written confirmation that the at-risk school for which the school district is applying for a grant from the program has satisfied the minimum standards described in section 22-82.3-105, which confirmation shall be signed by:

(A) The school district's director of food and nutrition, if any;

(B) The school district's superintendent; and

(C) The chair of the coordinated school health team of the at-risk school or the school district; and

(III) A proposal indicating how the at-risk school plans to use the grant awarded under the program. The proposal shall ensure that the entire amount of the grant awarded under the program shall be used for the purposes described in section 22-82.3-106.

(c) Minimum requirements for a person to meet the definition of a professional nutritionist or dietician; and

(d) Minimum requirements for a person to meet the definition of a mental health counselor.

(2) The state board shall promulgate rules pursuant to the “State Administrative Procedure Act”, article 4 of title 24, C.R.S., establishing criteria and procedures for the commissioner or his or her designee to use in selecting at-risk schools to receive grants under the program and in determining the amount of the grant to be awarded to each recipient school. The criteria and procedures shall ensure, to the maximum extent practicable, that:

(a) Rural, urban, and suburban at-risk schools are considered for receiving grants from the program;

(b) Large, medium, and small at-risk schools are considered for receiving grants from the program; and

(c) The amount of the grant awarded to each recipient school is reasonably commensurate with the size of the student population at the school.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1328, § 1, effective August 5.

**22-82.3-110. Repeal of article.** This article is repealed, effective July 1, 2019.

**Source: L. 2009:** Entire article added, (SB 09-123), ch. 287, p. 1329, § 1, effective August 5.

## ARTICLE 82.5

### Fresh Fruits and Vegetables Pilot Program

**22-82.5-101 to 22-82.5-108. (Repealed)**

**Editor’s note:** (1) This article was added in 2006 and was not amended prior to its repeal in 2009. For the text of this article prior to 2009, consult the 2008 Colorado Revised Statutes.

(2) Section 22-82.5-108 provided for the repeal of this article, effective January 1, 2009. (See L. 2006, p. 1113.)

## ARTICLE 82.6

### Farm-to-School Healthy Kids Act

22-82.6-101.	Short title.	22-82.6-104.	Interagency farm-to-school
22-82.6-102.	Legislative declaration.		coordination task force -
22-82.6-103.	Definitions.		creation - repeal.

**22-82.6-101. Short title.** This article shall be known and may be cited as the “Farm-to-School Healthy Kids Act”.

**Source: L. 2010:** Entire article added, (SB 10-081), ch. 96, p. 327, § 1, effective August 11.



**22-82.6-102. Legislative declaration.** (1) The general assembly finds and declares that:

(a) It is in the best interests of Colorado's children, farmers, ranchers, food processors, manufacturers, and communities to develop a more robust and self-sustaining agricultural sector that promotes healthy foods at schools and to encourage regulated child care programs to increase their use of local farm and ranch products in their food service programs, especially the school meal programs, in order to improve child nutrition and strengthen local and regional agricultural economies;

(b) Because a child can receive up to fifty-five percent of his or her daily nutritional requirements from school breakfast and lunch programs, it is important to encourage children to eat a healthy diet of fresh foods at school;

(c) While children receiving inadequate nutrition are at risk of lower achievement in school, research shows an improvement in student behavior, academic performance, and health scores when nutrition is improved; and

(d) Therefore, in order to encourage healthy and lifelong habits of eating fresh, minimally processed, and nutritious local foods as well as to foster relationships among farmers and school children, school personnel, and other adults in the Colorado community and to promote the sale of agricultural products produced in the state, it is in the best interests of the state to develop a farm-to-school program.

(2) The general assembly further finds and declares that a successful statewide farm-to-school program will require the creation of an interagency farm-to-school coordination task force with resources, expertise, and collaboration of a variety of state agencies, including the department of education, the department of agriculture, the department of public health and environment, and school districts.

**Source: L. 2010:** Entire article added, (SB 10-081), ch. 96, p. 327, § 1, effective August 11.

**22-82.6-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Commissioner of agriculture" means the commissioner of agriculture created in section 24-1-123, C.R.S.

(2) "Commissioner of education" shall have the same meaning as set forth in section 22-2-102.

(3) "Department of agriculture" means the department of agriculture created in section 24-1-123, C.R.S.

(4) "Department of education" means the department of education created in section 24-1-115, C.R.S.

(5) "Department of public health and environment" means the department of public health and environment created in section 25-1-102, C.R.S.

(6) "Executive director of the Colorado commission on higher education" means the executive director appointed pursuant to section 24-1-114, C.R.S.

(7) "Farm-to-school program" means a program that encourages or incentivizes the acquisition and use of locally grown, produced, and processed agricultural products by schools in order to provide healthy, local food products to students and benefit the state agricultural industry. A farm-to-school program may include the following components:

(a) Serving food to Colorado's schoolchildren and adults that is fresh and as nutritious as possible;

(b) Maximizing use of fresh food that is locally grown, produced, and processed;

(c) Educating students about healthy eating habits through nutrition education, including using hands-on techniques to make connections between farming and the foods that students consume;

(d) Increasing the size and stability of farmers' direct sales markets;

(e) Increasing participation in United States department of agriculture school meal programs by increasing the selection of food available to students;

(f) Providing outreach and guidance to farmers concerning the value of, and procedures for, selling their agricultural products to interested schools;

(5) "School food authority" means:

- (a) A school district or the state charter school institute;
- (a.3) A charter school collaborative formed pursuant to section 22-30.5-603;
- (a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or
- (b) A district charter school or an institute charter school that:
  - (I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or
  - (II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source:** L. 2007: Entire article added, p. 901, § 2, effective May 15. L. 2008: (1.5) added, p. 1406, § 55, effective May 27. L. 2009: (5) added, (SB 09-230), ch. 227, p. 1036, § 9, effective May 4. L. 2010: (5)(a) amended and (5)(a.5) added, (HB 10-1335), ch. 326, p. 1514, § 8, effective August 11; (5)(b)(I) amended, (HB 10-1422), ch. 419, p. 2079, § 51, effective August 11. L. 2011: (5)(a.3) added, (HB 11-1277), ch. 306, p. 1506, § 40, effective August 10.

**22-82.7-103. Start smart nutrition program - creation - administration - objectives.** (1) There is hereby created the start smart nutrition program to ensure that each student in Colorado public schools and facility schools has an opportunity to begin each day with a nutritious breakfast.

(2) The department shall administer the program in accordance with the procedures developed by the department pursuant to section 22-82.7-106.

(3) The objectives of the program are to:

- (a) Appropriate moneys from the state budget to eliminate the reduced price paid by Colorado students participating in the school breakfast program and to offset the costs incurred by facility schools in providing the school breakfast program to students who are receiving educational services from the facility schools;
- (b) Increase the number of Colorado students who consume a nutritious breakfast each day;
- (c) Decrease statewide health care costs by improving the health of school-age children;
- (d) Lessen students' risk of obesity by providing nutritious breakfast options;
- (e) Encourage charter schools, school districts, and facility schools to participate in the school breakfast program;
- (f) Increase students' consumption of whole grains, fruits and vegetables, vitamins A and C, calcium, protein, fiber, and iron; and
- (g) Make breakfast more accessible to underprivileged students.

**Source:** L. 2007: Entire article added, p. 901, § 2, effective May 15. L. 2008: (1), (3)(a), and (3)(e) amended, p. 1406, § 56, effective May 27.

**22-82.7-104. Program funding - appropriation.** (1) The general assembly shall annually appropriate by separate line item in the annual general appropriation bill an amount of not less than seven hundred thousand dollars and not more than one million five hundred thousand dollars to the fund created in section 22-82.7-105 to allow school food authorities to provide free breakfasts to children participating in the school breakfast program who would otherwise be required to pay a reduced price for breakfast and to offset the costs incurred by facility schools in providing breakfasts to students who are placed in the facility and are eligible to participate in the school breakfast program. The appropriation to the fund shall be in addition to any appropriation made by the general assembly pursuant to section 22-54-123 or 22-54-123.5 (1).



(2) The department may seek and accept gifts, grants, and donations from public and private sources to fund the program, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the program. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source:** L. 2007: Entire article added, p. 902, § 2, effective May 15. L. 2008: (1) amended, p. 1406, § 57, effective May 27. L. 2009: (1) amended, (SB 09-230), ch. 227, p. 1036, § 10, effective May 4.

**22-82.7-105. Start smart nutrition program fund - creation - administrative costs.**

(1) There is hereby created in the state treasury the start smart nutrition program fund. The fund shall consist of:

(a) Such moneys as are appropriated to the fund by the general assembly pursuant to section 22-82.7-104 (1);

(b) Any gifts, grants, or donations received by the department for the fund pursuant to section 22-82.7-104 (2); and

(c) Any other moneys directed to the fund by the department.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program pursuant to the provisions of this article. The department may expend not more than one percent of the moneys annually appropriated from the fund to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article.

(3) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

**Source:** L. 2007: Entire article added, p. 902, § 2, effective May 15.

**22-82.7-106. Program - procedures.** The department shall develop procedures to allocate and disburse the moneys in the fund among participating school food authorities and facility schools each year, in an equitable manner and in compliance with the requirements of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

**Source:** L. 2007: Entire article added, p. 903, § 2, effective May 15. L. 2008: Entire section amended, p. 1407, § 58, effective May 27. L. 2009: Entire section amended, (SB 09-230), ch. 227, p. 1037, § 11, effective May 4.

**22-82.7-107. No individual entitlement.** (1) Nothing in this article shall be interpreted to create a legal entitlement in any participant to assistance provided pursuant to the program.

(2) The department in administering the program and a school food authority or a facility school in implementing the program may not create and shall not be deemed to create a legal entitlement in any participant to assistance provided pursuant to the program.

**Source:** L. 2007: Entire article added, p. 903, § 2, effective May 15. L. 2008: (2) amended, p. 1407, § 59, effective May 27. L. 2009: (2) amended, (SB 09-230), ch. 227, p. 1037, § 12, effective May 4.

**ARTICLE 82.9****Child Nutrition School Lunch Protection Program**

**Cross references:** For the legislative declaration contained in the 2008 act enacting this article, see section 1 of chapter 350, Session Laws of Colorado 2008.

22-82.9-101.	Short title.	22-82.9-105.	jectives.
22-82.9-102.	Legislative declaration.		Program funding - appropriation.
22-82.9-103.	Definitions.		
22-82.9-104.	Child nutrition school lunch protection program - creation - administration - ob-	22-82.9-106.	Program - procedures.
		22-82.9-107.	No individual entitlement.

**22-82.9-101. Short title.** This article shall be known and may be cited as the “Child Nutrition School Lunch Protection Program Act”.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5.

**22-82.9-102. Legislative declaration.** (1) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution;

(a) Good nutrition is an essential component to student learning and promotes success for students in today’s fast-paced environment;

(b) By increasing the number of students who can receive a free, nutritious lunch, the school lunch program is an important component of an accountable program to meet state academic standards, and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5.

**22-82.9-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) “Program” means the child nutrition school lunch protection program created pursuant to section 22-82.9-104.

(2.5) “School food authority” means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(3) “School lunch program” means the federal “National School Lunch Act” created in 42 U.S.C. sec. 1751 et seq.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5. **L. 2009:** (2.5) added, (SB 09-230), ch. 227, p. 1037, § 13, effective May 4. **L. 2010:** (2.5)(a) amended and (2.5)(a.5) added, (HB 10-1335), ch. 326, p. 1514, § 9, effective August 11; (2.5)(b)(I) amended, (HB 10-1422), ch. 419, p. 2080, § 52, effective August 11. **L. 2011:** (2.5)(a.3) added, (HB 11-1277), ch. 306, p. 1506, § 41, effective August 10.



**22-82.9-104. Child nutrition school lunch protection program - creation - administration - objectives.** (1) There is hereby created the child nutrition school lunch protection program to ensure that each student in a Colorado public school has access to a healthy lunch at school to help the student participate fully in the learning process.

(2) The department shall administer the program in accordance with the procedures developed pursuant to section 22-82.9-106.

(3) The department shall approve a multi-district on-line school operating in learning centers, as defined in section 22-30.7-102 (4), to participate in the program and in the school lunch program so long as the multi-district on-line school complies with the federal requirements for participating in the school lunch program, including but not limited to completing and submitting the required federal application form for each student who chooses to participate in the school lunch program.

(4) The objectives of the program are to:

(a) Eliminate the reduced price paid by Colorado students who are enrolled in state-subsidized early childhood education programs administered by public schools or in kindergarten through second grade and who are participating in the school lunch program;

(b) Increase the number of Colorado students who consume a healthy lunch each day;

(c) Decrease statewide health care costs by improving the health of school-age children;

(d) Lessen students' risk of obesity and type 2 diabetes by providing healthy school lunch options;

(e) Encourage charter schools and school districts to participate in the school lunch program;

(f) Increase students' consumption of whole grains, fruits and vegetables, vitamins, calcium, protein, fiber, and iron; and reduce the consumption of sodium, cholesterol, sugar, and calories;

(g) Make lunch more accessible to underprivileged students;

(h) Lessen the stigma associated with children who receive reduced-cost lunches;

(i) Reduce child hunger in Colorado; and

(j) Continue to strengthen and support child nutrition programs.

**Source:** **L. 2008:** Entire article added, p. 1640, § 2, effective August 5. **L. 2009:** (4)(a) amended, (SB 09-033), ch. 54, p. 193, § 1, effective August 5. **L. 2012:** (3) amended, (HB 12-1240), ch. 258, p. 1332, § 49, effective June 4.

**22-82.9-105. Program funding - appropriation.** (1) The general assembly shall annually appropriate by separate line item in the annual general appropriation bill an amount of not less than eight hundred fifty thousand dollars and not more than one million five hundred thousand dollars to the department to allow school food authorities to provide lunches at no charge for children in state-subsidized early childhood education programs administered by public schools or in kindergarten through second grade, participating in the school lunch program, who would otherwise be required to pay a reduced price for lunch. The appropriation to the department for the program shall be in addition to any appropriation made by the general assembly pursuant to section 22-54-123 or 22-54-123.5 (1). The department may expend not more than two percent of the moneys annually appropriated for the program to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article.

(2) The department is authorized to seek and accept gifts, grants, and donations from public and private sources for the purposes of this article, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the program.

(3) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source: L. 2008:** Entire article added, p. 1641, § 2, effective August 5. **L. 2009:** (1) amended, (SB 09-230), ch. 227, p. 1037, § 14, effective May 4; (1) amended, (SB 09-033), ch. 54, p. 193, § 2, effective August 5.

**Editor’s note:** Amendments to subsection (1) by Senate Bill 09-033 and Senate Bill 09-230 were harmonized.

**22-82.9-106. Program - procedures.** The department shall develop procedures to allocate and disburse the moneys in the program among participating school food authorities each year, in an equitable manner and in compliance with the requirements of the federal “National School Lunch Act”, 42 U.S.C. sec. 1751 et seq.

**Source: L. 2008:** Entire article added, p. 1642, § 2, effective August 5. **L. 2009:** Entire section amended, (SB 09-230), ch. 227, p. 1038, § 15, effective May 4.

**22-82.9-107. No individual entitlement.** (1) Nothing in this article shall be interpreted to create a legal entitlement to any participant to assistance provided pursuant to the program.

(2) The department in administering the program and a school food authority in implementing the program may not create and shall not be deemed to create a legal entitlement to any participant to assistance provided pursuant to the program.

**Source: L. 2008:** Entire article added, p. 1642, § 2, effective August 5. **L. 2009:** (2) amended, (SB 09-230), ch. 227, p. 1038, § 16, effective May 4.

ARTICLE 83

Plan for Improving Achievement  
in Math, Science, and Technology

22-83-101.	Legislative declaration.	22-83-103.	Mathematics, science, and
22-83-102.	Pre-K through 12 and post-secondary mathematics, science, and technology education improvement plan.		technology education improvement plan fund - creation.

**22-83-101. Legislative declaration.** The general assembly finds that state programs instituting comprehensive statewide systemic initiatives designed to broaden the impact, accelerate the pace, and increase the effectiveness of and achieve significant improvements in science, mathematics, and technology education in pre-K through 12 and postsecondary levels are essential to student improvement and achievement in the 1990’s and beyond. The general assembly further finds that a statewide structure for systemic change in pre-K through 12 and postsecondary mathematics, science, and technology education should be designed which takes full advantage of the unique opportunities available in Colorado including, but not limited to, a decentralized educational system that supports creative reform initiatives beginning in the classroom, a concentration of expertise in the space sciences and technological fields, and a plan for improving such education through the use of a statewide comprehensive telecommunications system under the “Pre-K-16 Mathematics, Science, and Technology Improvement Act of 1990”, article 81 of this title. The general assembly finds that the Colorado mathematics-science-technology commission appointed by the governor intends to facilitate and assist with developing plans for the restructuring of mathematics, science, and technology programs in pre-K through 12 and postsecondary education. The general assembly finds that the goals of such structure for systemic change should be to increase the knowledge of science and mathematics acquired by all students at all grade and ability levels, to afford every student the maximum opportunity to acquire the habits of mind and critical thinking skills that characterize the effective use of mathematics and science essential for engineering and technology, to assure the emergence of Colorado



as the national leader in student achievement and participation in science, mathematics, and technology, particularly by those groups which are traditionally underrepresented, and to participate actively in achieving the president's and the nation's governors' goal of making American students the first in the world in mathematics and science achievement by the year 2000.

**Source: L. 91:** Entire article added, p. 514, § 1, effective June 5.

**22-83-102. Pre-K through 12 and postsecondary mathematics, science, and technology education improvement plan.** (1) The Colorado mathematics-science-technology commission shall facilitate an improvement plan that institutes comprehensive statewide systemic initiatives designed to analyze, review, and improve all or some of the systemic components of pre-K through 12 and postsecondary mathematics, science, and engineering education in Colorado. Such plan shall specifically include and address the following:

(a) The design, facilitation, and coordination of such a plan by the Colorado department of education, the Colorado commission on higher education, the Colorado alliance for science, individual school district boards, and the governing boards of state institutions of higher education, in cooperation and consultation with the mathematics-science-technology commission appointed by the governor;

(b) Measures taken in preparation for action, including the mathematics-science-technology commission's findings derived from a thorough analysis of the essential system components and factors affecting science, mathematics, engineering, and technical education;

(c) Specific objectives, including, but not limited to, increasing student participation and achievement in mathematics, science, and technology education at all grade and ability levels and increasing public awareness about mathematics, science, and technology instruction and issues;

(d) The results and benefits expected from the plan, including increased student access to and participation in math and science courses and the evaluation and redesigning of math and science instruction;

(e) An agenda for action and experimentation which describes an explicit management and implementation structure, confronts obstacles to change, and achieves planned improvements;

(f) The proposed development of a network of unique schools to develop and refine systemic change in mathematics, science, and technology education with an ultimate purpose of increasing the effectiveness for children;

(g) Long-term commitments to action specifically describing the commitment made by the officers, offices, agencies, groups, and systems making up the statewide partnership;

(h) The past and planned efforts made to increase public awareness and understanding of the urgent need to support improvements in mathematics, science, and technology education;

(i) A description of certain components of systemic change to be integrated into plans for mathematics, science, and technology education initiatives, including but not limited to the following:

- (I) Organizational structure and decision-making;
- (II) Provision and allocation of resources;
- (III) Recruitment and preparation of teachers and college faculty;
- (IV) Retention and continuing professional development of teachers and other professional personnel;
- (V) Curriculum content and learning goals;
- (VI) Delivery of instruction, including the use of educational technology;
- (VII) Assessment of student achievement;
- (VIII) Facilities and equipment;
- (IX) Articulation within the system; and
- (X) Accountability systems;

(j) The past and planned efforts made to restructure teacher education programs for higher education to ensure that all students shall have strong mathematics, science, and technology competencies; and

(k) The use of advanced technology to improve distance learning capabilities for rural and urban schools including, but not limited to, carrying mathematics, science, and technology courses on the state's existing telecommunications networks and those to be expanded or developed.

**Source:** **L. 91:** Entire article added, p. 515, § 1, effective June 5. **L. 97:** (1)(a) amended, p. 1013, § 20, effective August 6.

**22-83-103. Mathematics, science, and technology education improvement plan fund - creation.** (1) There is hereby created in the state treasury the mathematics, science, and technology education improvement plan fund, which fund shall be administered by the department of education.

(2) The department is authorized to receive donations, grants, contributions, gifts, bequests, federal funds, and funds from any source to be credited to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund but shall be subject to appropriation by the general assembly for the purposes of this article.

(3) The general assembly may from time to time make appropriations from the general fund to the fund for the use of the department in carrying out the purposes of this article.

**Source:** **L. 91:** Entire article added, p. 517, § 1, effective June 5.

## ARTICLE 84

### Colorado Magnet School for Mathematics, Science, and Technology

**22-84-101 to 22-84-103. (Repealed)**

**Source:** **L. 2000:** Entire article repealed, p. 194, § 2, effective July 1.

**Editor's note:** This article was added in 1991. For amendments to this article prior to its repeal in 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 86

### Summer School Grant Program Facility Schools

**22-86-101 to 22-86-106. (Repealed)**

**Source:** **L. 2008:** Entire article repealed, p. 1228, § 44, effective May 22.

**Editor's note:** This article was added in 2002. For amendments to this article prior to its repeal in 2008, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the legislative declaration contained in the 2008 act repealing this article, see section 1 of chapter 286, Session Laws of Colorado 2008.



**ARTICLE 87****Children's Internet Protection**

22-87-101.	Short title.	22-87-106.	No restrictions on blocking access to the internet of other material.
22-87-102.	Legislative declaration.		
22-87-103.	Definitions.	22-87-107.	No effect on library maintained by postsecondary educational institution - no requirement of additional action for public schools already in compliance.
22-87-104.	Adoption and enforcement of policy of internet safety for minors including technology protection measures - public schools.		
22-87-105.	Temporary disabling of technology protection measure.		

**22-87-101. Short title.** This article shall be known and may be cited as the "Children's Internet Protection Act".

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15.

**22-87-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Use of the internet in the public schools of the state provides an extraordinary, unique, and unparalleled educational resource;

(b) Reasonable measures must be adopted and implemented to protect the children who use internet services in public schools from access to material that is harmful to their beneficial development as responsible adults and citizens.

(2) It is the intent of the general assembly by enacting this article that public schools be required to adopt and enforce reasonable policies of internet safety that will protect children from access to harmful material without compromising either the use of the internet as an educational resource or responsible adult use of internet services in such schools.

(3) The general assembly favors the adoption by public libraries across the state of policies for children's internet protection that mirror the policies for public schools required to be adopted pursuant to the provisions of this article. Recognizing that limited state resources as of August 15, 2003, preclude an appropriation to expand the requirements of this article to include public libraries, the general assembly urges public libraries to, and hopes such libraries will, adopt the policies specified in this article on their own initiative.

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15.

**22-87-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Access to the internet" means, with reference to a particular technology device, that the technology device is connected to a network that provides access to the internet.

(2) Repealed.

(3) "District" means any public school district organized under the laws of Colorado, except a junior college district.

(4) "Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

(a) Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(b) Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(5) "Minor" means an individual who has not attained the age of seventeen.

(6) "Sexual act" or "sexual contact" shall have the same meanings as set forth in 18 U.S.C. sec. 2246 (2) and (3).

(6.5) "Technology device" means any computer, hardware, software, or other technology that is used for learning purposes and has the ability to connect with the internet.

(7) "Technology protection measure" includes, without limitation, computer software that blocks or filters access to the internet to visual depictions that are:

- (a) Obscene, as defined in section 18-7-101, C.R.S.;
- (b) Child pornography, as defined in 18 U.S.C. sec. 2256 (8); or
- (c) Harmful to minors.

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15. **L. 2012:** (1) and IP(7) amended, (2) repealed, and (6.5) added, (HB 12-1240), ch. 258, p. 1333, § 54, effective June 4.

**22-87-104. Adoption and enforcement of policy of internet safety for minors including technology protection measures - public schools.** (1) No later than December 31, 2012, the governing body of each district shall adopt and implement a policy of internet safety for minors that includes a technology protection measure for each technology device provided by the district that allows for access to the internet by a minor from any location.

(2) After the adoption and implementation of the policy of internet safety required by subsection (1) of this section, the governing body of each district shall continue to enforce the policy adopted.

**Source: L. 2003:** Entire article added, p. 2476, § 31, effective August 15. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1334, § 55, effective June 4.

**22-87-105. Temporary disabling of technology protection measure.** (1) An administrator, supervisor, or any other person authorized by the district to enforce the operation of the technology protection measure adopted and implemented in accordance with the requirements of section 22-87-104 may temporarily disable the technology protection measure to enable access to the internet on a particular technology device by:

- (a) An adult for bona fide research or other lawful purposes; or
- (b) A minor for bona fide research or other lawful purposes where the internet use in connection with the research or other lawful purpose is supervised by an administrator, supervisor, or other person authorized by the district to perform such function.

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15. **L. 2012:** IP(1) amended, (HB 12-1240), ch. 258, p. 1334, § 56, effective June 4.

**22-87-106. No restrictions on blocking access to the internet of other material.** Nothing in this article shall be construed as prohibiting a local board of education, or an elementary or secondary school, from blocking access to the internet on technology devices owned or operated by that board or school to material other than the material for which a technology protection measure is explicitly required in accordance with the requirements of this article.

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1334, § 57, effective June 4.

**22-87-107. No effect on library maintained by postsecondary educational institution - no requirement of additional action for public schools already in compliance.** (1) Nothing in this article shall be construed to apply to any library facility maintained by any postsecondary educational institution. For purposes of this subsection (1), "postsecondary" shall have the same meaning as is provided in section 23-1-119 (4), C.R.S.



(2) Nothing in this article shall be construed to require any additional action on the part of any school district that is already in compliance with the requirements of this article as of July 1, 2003.

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15.

ARTICLE 88

Audio Textbooks

**22-88-101 to 22-88-106. (Repealed)**

**Editor’s note:** (1) This article was added in 2006. For amendments prior to its repeal in 2010, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.  
(2) Section 22-88-106 provided for the repeal of this article, effective July 1, 2010. (See L. 2009, p. 771.)

ARTICLE 88.1

Reading Assistance Grant Program Fund

22-88.1-101. Reading assistance grant program fund - balance of moneys - transfer.

**22-88.1-101. Reading assistance grant program fund - balance of moneys - transfer.** On June 30, 2011, the state treasurer shall transfer the balance of moneys in the reading assistance grant program fund, as said fund existed prior to July 1, 2010, to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2011:** Entire article added, (SB 11-218), ch. 151, p. 527, § 6, effective May 5.

ARTICLE 89

Wind for Schools Grant Program

22-89-101.	Short title.	22-89-105.	tions.
22-89-102.	Legislative declaration.		Wind for schools grant program - policies - awarding grants.
22-89-103.	Definitions.		
22-89-104.	Wind for schools grant program - created - applica-		

**22-89-101. Short title.** This article shall be known and may be cited as the “Wind for Schools Grant Program”.

**Source: L. 2007:** Entire article added, p. 563, § 1, effective April 16.

**22-89-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:  
(a) Colorado’s schools face a perennial struggle with tight budgets, and their financial difficulties are worsened by volatile electricity prices that often lead to high electricity bills;  
(b) A small but growing number of schools have responded to these difficulties by beginning to produce their own electricity with wind turbines;  
(c) By producing their own electricity with wind turbines, some schools have reduced their electricity costs while promoting energy independence and environmental responsi-

bility and have provided students with an opportunity to understand this burgeoning technology;

(d) The general assembly would serve the best interests of Colorado schools by supporting the efforts of public schools and community colleges that are considering wind power projects.

**Source: L. 2007:** Entire article added, p. 563, § 1, effective April 16.

**22-89-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Colorado energy office" means the Colorado energy office created in section 24-38.5-101, C.R.S.

(2) "Qualified school" means a public school or community college in the state that is working with the national renewable energy laboratory to establish a wind for schools project. A qualified school shall have a project team involved that includes the school, community, and technical assistance membership.

(3) "Wind for schools grant program" or "grant program" means the grant program created pursuant to section 22-89-104 to fund wind power projects at a qualified school.

(4) "Wind for schools project" means a project supported by the national renewable energy laboratory and wind powering America to help a qualified school install a wind turbine that will help defray the school's energy costs and provide educational opportunities for students relating to the generation of wind power.

**Source: L. 2007:** Entire article added, p. 564, § 1, effective April 16. **L. 2008:** (1) amended, p. 68, § 2, effective March 18. **L. 2012:** (1) amended, (HB 12-1315), ch. 224, p. 958, § 5, effective July 1.

**22-89-104. Wind for schools grant program - created - applications.** (1) There is hereby created the wind for schools grant program to fund wind for schools projects at qualified schools. A qualified school may, with the written authorization of the local board of education, apply to the Colorado energy office, in accordance with procedures and deadlines adopted by the office, to receive moneys through the grant program. The office shall administer the grant program as provided in this article and pursuant to policies adopted by the office.

(2) (a) The Colorado energy office shall adopt policies specifying when a qualified school may request a grant and the procedure for making the request.

(b) A qualified school that receives a grant through the grant program shall use the moneys received to pay for technical assistance, equipment, or installation costs associated with a wind for schools project.

**Source: L. 2007:** Entire article added, p. 564, § 1, effective April 16. **L. 2008:** (1) and (2)(a) amended, p. 68, § 3, effective March 18. **L. 2012:** (1) and (2)(a) amended, (HB 12-1315), ch. 224, p. 958, § 6, effective July 1.

**22-89-105. Wind for schools grant program - policies - awarding grants.** (1) The Colorado energy office shall adopt policies for the implementation of the wind for schools grant program. At a minimum, the policies shall specify the procedures for applying for a grant, the form of the grant application, the information to be provided by the applicant, and the criteria for awarding grants.

(2) (a) The Colorado energy office shall review each grant application received from a qualified school pursuant to section 22-89-104 and shall make a determination as to whether the grant should be awarded and, except as provided in paragraph (c) of this subsection (2), the amount of the grant. If the office determines an application is missing any information required by the office's policy to be included with the application, the office may contact the applicant to obtain the missing information.

(b) In awarding grants pursuant to this article, the Colorado energy office shall consider, at a minimum, whether a qualified school:



- (I) Would reduce its electricity costs by the implementation of a wind for schools project; and
- (II) Has a plan in place to incorporate the implementation of a wind for schools project into its educational curriculum.
- (c) A qualified school shall not receive an aggregate amount of grants pursuant to this article that exceeds five thousand dollars.
- (3) The Colorado energy office shall use at least fifty thousand dollars for the implementation of this grant program from the existing resources of the office. The minimum funding requirement for the implementation of this grant program may be met in one or more fiscal years. The office shall not submit a request for an appropriation or a supplemental appropriation for this purpose.

**Source:** **L. 2007:** Entire article added, p. 565, § 1, effective April 16. **L. 2008:** Entire section amended, p. 68, § 4, effective March 18. **L. 2012:** (1), (2)(a), IP(2)(b), and (3) amended, (HB 12-1315), ch. 224, p. 959, § 7, effective July 1.

ARTICLE 90

Interstate Compact on Educational  
Opportunity for Military Children

22-90-101. Interstate compact approved  
and ratified.

**22-90-101. Interstate compact approved and ratified.** Pursuant to section 24-60-3402, C.R.S., the general assembly approved and ratified and authorized the governor to enter into a compact on behalf of the state of Colorado with any of the United States or other jurisdictions concerning educational opportunity for military children.

**Source:** **L. 2008:** Entire article added, p. 2277, § 1, effective August 5.

ARTICLE 91

School Counselor Corps Grant Program

22-91-101.	Legislative declaration.	22-91-104.	School counselor corps grant
22-91-102.	Definitions.		program - application - cri-
22-91-103.	School counselor corps grant		teria - grant awards.
	program - created - rules.	22-91-105.	Reporting.

- 22-91-101. Legislative declaration.** (1) The general assembly hereby finds that:
- (a) A student's level of education attainment will directly influence the student's level of achievement and success throughout the rest of his or her life;
- (b) The national center for education statistics reports that, in comparing employment rates and levels of education attainment across the country, in 2005, the unemployment rate for persons who dropped out of high school was seven and six-tenths percent, compared to an overall average unemployment rate for all education levels of four percent. The unemployment rate for persons who graduated from high school and attained an associates degree was three and three-tenths percent, and the unemployment rate dropped to two and three-tenths percent for persons who attained a bachelor's degree.
- (c) The Colorado department of education reports that the graduation rate for Colorado school districts in the spring of 2006 was seventy-four and one-tenth percent;
- (d) In 2003, approximately forty-nine percent of the students who graduated from a Colorado public high school enrolled in a public institution of higher education in Colorado;
- (e) As recently as 2006, statistics showed that there is a forty percent probability that a student who is enrolled in ninth grade in Colorado will be enrolled in postsecondary education when the student is nineteen years of age, and thirty-four percent of the persons

in Colorado who are eighteen to twenty-four years of age are enrolled in postsecondary education;

(f) Studies show that school counseling and postsecondary preparation can have a significant effect on students in assisting them to begin as early as seventh or eighth grade to identify their post-graduation goals and to begin planning to achieve them. This is especially true for African-American and Hispanic students, low-income students, and students whose parents have no direct experience with postsecondary education.

(g) Studies further show that strategic partnerships among school counselors, properly trained administrators, teachers, and community-based postsecondary service providers result in improved attendance, improved academic performance, and increased postsecondary success for students from low-income families and students whose parents have no direct experience with postsecondary education;

(h) Studies also show that a significant factor in assisting a student to remain in school and to graduate is the creation of a strong personal relationship with at least one adult in the school, and in many cases that adult is a school counselor;

(i) Professional school counselors are trained to provide comprehensive programs that facilitate the development of the whole child in the areas of academic, career, and personal and social needs;

(j) For the 2006-07 school year, the student-to-counselor ratio in Colorado public schools was approximately five hundred to one, which is double the ratio recommended by the American school counselors association as an average statewide ratio; and

(k) Reducing the student-to-counselor ratio in Colorado's public secondary schools is a positive move toward achieving the goals of closing the achievement gap, decreasing the dropout rate, and increasing the number of students who matriculate into postsecondary education without the need for remediation.

(2) The general assembly concludes, therefore, that it is in the best interests of the students in the state to encourage and support school districts, boards of cooperative services, and charter schools in increasing the number of school counselors available in middle, junior high, and high schools and in improving the level of school counseling services provided to students by enacting the school counselor corps grant program.

**Source: L. 2008:** Entire article added, p. 1353, § 1, effective May 27.

**22-91-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Education provider" means a school district, a board of cooperative services, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(3) "Postsecondary service provider" means an independent agency whose primary purpose is to provide career and college preparatory services to students.

(4) "Program" means the school counselor corps grant program created in section 22-91-103.

(5) "Recipient secondary school" means a secondary school at which an education provider will use moneys received from the program to either increase the number of school counselors or otherwise raise the level of school counseling provided.

(6) "School counselor" means a person who holds a special services provider license with a school counselor endorsement issued pursuant to article 60.5 of this title or who is otherwise endorsed or accredited by a national association to provide school counseling services.

(7) "Secondary school" means a public school that includes any of grades seven through twelve.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1355, § 1, effective May 27.



**22-91-103. School counselor corps grant program - created - rules.** (1) There is hereby created in the department the school counselor corps grant program to provide funding to education providers to increase the availability of effective school-based counseling within secondary schools with the goal of increasing the graduation rate within the state and increasing the percentage of students who appropriately prepare for, apply to, and continue into postsecondary education. An education provider that receives a grant under the program shall use the moneys to increase the level of funding the education provider allocated to school-based counseling prior to receiving the grant and not to replace other funding sources allocated to school-based counseling. The department shall administer the program as provided in this article and pursuant to rules adopted by the state board.

(2) The state board shall adopt rules, pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the program, including but not limited to rules regarding:

- (a) The time line for submitting applications to the department;
- (b) The form of the grant application and any information in addition to that specified in section 22-91-104 (2) to be included in the application;
- (c) Any criteria for awarding grants in addition to those specified in section 22-91-104 (3); and
- (d) Any information to be included in the department's program report in addition to that required in section 22-91-105.

**Source: L. 2008:** Entire article added, p. 1355, § 1, effective May 27.

**22-91-104. School counselor corps grant program - application - criteria - grant awards.** (1) An education provider that seeks a grant from the program shall submit an application to the department in accordance with the rules adopted by the state board. The department shall review each application received from an education provider and make recommendations to the state board concerning whether a grant should be awarded to the education provider and the recommended amount of the grant. If the department determines an application is missing any information required by rule to be included with the application, the department may contact the education provider to obtain the missing information.

(2) At a minimum, each grant application shall specify:

- (a) The intended recipient secondary schools, the number of secondary school counselors employed by the education provider prior to receipt of a grant, and the ratio of students to school counselors in the secondary schools operated by or receiving services from the education provider;
- (b) Whether the education provider has adopted standards for school counselor responsibilities, as recommended by a national association of school counselors;
- (c) Whether the education provider has entered into, or has committed to establishing, one or more partnerships with institutions of higher education or postsecondary service providers in Colorado to support and increase the capacity and effectiveness of the counseling and postsecondary preparation services provided to secondary school students enrolled in or receiving educational services from the education provider;
- (d) The education provider's plan for use of the grant moneys, including the extent to which the grant moneys will be used to increase the number of school counselors at recipient secondary schools and to provide professional development for school counselors and professional development to enable other faculty members to provide counseling and postsecondary preparation services at recipient secondary schools;
- (e) The education provider's plan for involving leaders at the recipient secondary schools and in the surrounding community and the faculty at recipient secondary schools in increasing the capacity and effectiveness of the counseling and postsecondary preparation services provided to secondary school students enrolled in or receiving educational services from the education provider;
- (f) The extent to which the education provider has developed or plans to develop partnerships to serve the postsecondary needs of all of the secondary students enrolled in or receiving educational services from the education provider;

(g) The education provider's use of district-level, or school-level if the education provider is a charter school, needs assessments that identify challenging issues in the district or school in terms of student learning and success and identification of any programs initiated or services provided by the education provider to secondary students that have helped to increase graduation rates and the level of postsecondary success among graduates;

(h) The attendance, grade-retention and promotion, and grading policies implemented by the education provider;

(i) Whether the education provider intends to provide matching funds to augment any grant moneys received from the program and the anticipated amount and source of any matching funds; and

(j) The education provider's plan for continuing to fund the increases in school counseling services following expiration of the grant.

(3) In reviewing applications and making recommendations, the department shall apply the following criteria in addition to any other criteria adopted by rule of the state board:

(a) The dropout rate at the intended recipient secondary school or schools and, if the education provider is a school district, at all of the secondary schools within the school district. The department and the state board shall give priority to education providers that intend to use the grant moneys to assist secondary schools at which the dropout rate exceeds the statewide average.

(b) The percentage of students enrolled in the intended recipient secondary school or schools who are eligible for free or reduced-cost lunch. The department and the state board shall give priority to education providers that identify intended recipient secondary schools with a high percentage of said students.

(c) The percentage of students enrolled in the intended recipient secondary school or schools and, if the education provider is a school district, in the school district, who graduate and enroll in postsecondary education within two years after graduating from high school;

(d) Whether the education provider has adopted, or has demonstrated a commitment to adopting, standards for school counselor responsibilities, as recommended by a national association of school counselors; and

(e) The likelihood that the education provider will continue to fund the increases in the level of school counseling services following expiration of the grant.

(4) The department and the state board shall consult with experts in the area of school counseling, including but not limited to school counselors, persons who provide education and professional development in the areas of school counseling and career counseling, and higher education admissions officers, in establishing any additional criteria for awarding grants and in reviewing applications and selecting grant recipients.

(5) Subject to available appropriations, the state board shall award grants to applying education providers pursuant to this section. The state board shall base the grant awards on the department's recommendations. Each grant shall have a term of three years beginning in the 2008-09 budget year. In making the award, the state board shall specify the amount of each grant.

(6) The department may expend no more than three percent of the moneys annually appropriated for the program to offset the costs incurred in implementing the program.

(7) The department shall seek and may accept public or private gifts, grants, or donations to assist in funding the program.

(8) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, awarding grants to education providers to use in increasing the availability of school counselors and the level of school counseling services provided in secondary schools and to thereby increase the graduation and matriculation rates and decrease the need for remediation in postsecondary education is an important element of accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source:** L. 2008: Entire article added, p. 1356, § 1, effective May 27. L. 2011: (6) amended, (SB 11-229), ch. 157, p. 543, § 1, effective May 5.



**22-91-105. Reporting.** (1) Each education provider that receives a grant through the program shall report the following information to the department each year during the term of the grant:

- (a) The number of school counselors hired using grant moneys;
- (b) Any professional development programs provided using grant moneys;
- (c) Any other services provided using grant moneys;
- (d) A comparison of the dropout rates, and the college matriculation and remediation rates, if applicable, at the recipient secondary schools for the years prior to receipt of the grant and the years for which the education provider receives the grant;

(e) Information indicating an increase in the level of postsecondary preparation services provided to secondary students at recipient secondary schools, such as the use of individual career and academic plans or enrollment in pre-collegiate preparation programs or post-secondary or vocational preparation programs; and

(f) Any additional information that the state board, by rule, may require.

(2) On or before May 15, 2009, and on or before May 15 each year thereafter, the department shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report that, at a minimum, summarizes the information received by the department pursuant to subsection (1) of this section. The department shall also post the report to its web site.

(3) The department of higher education shall cooperate with the department in providing information necessary for the report submitted by the department pursuant to subsection (2) of this section.

**Source: L. 2008:** Entire article added, p. 1359, § 1, effective May 27. **L. 2011:** (2) amended, (HB 11-1277), ch. 306, p. 1503, § 28, effective August 10.

## ARTICLE 92

### Renewable Energy and Energy Efficiency for Schools Loan Program

**Cross references:** For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2011, see sections 1 (§ 22-92-102) and 5 of chapter 253, Session Laws of Colorado 2009. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

22-92-101.	Short title.		program - rules - awarding loans.
22-92-102.	Legislative declaration.		
22-92-103.	Definitions.	22-92-106.	Renewable energy and energy efficiency for schools loan program administration fund - creation - administrative costs.
22-92-104.	Renewable energy and energy efficiency for schools loan program - created - applications - permissible uses of loans.	22-92-107.	Loans from public school fund authorized.
22-92-105.	Renewable energy and energy efficiency for schools loan		

**22-92-101. Short title.** This article shall be known and may be cited as the "Renewable Energy and Energy Efficiency for Schools Loan Program Act".

**Source: L. 2009:** Entire article added, (HB 09-1312), ch. 253, p. 1138, § 1, effective August 5.

**22-92-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Colorado's school districts face a perennial struggle with tight budgets, and their financial difficulties are worsened by volatile energy prices that often lead to high utility bills;

(b) A small but growing number of school districts have responded to these difficulties by beginning to produce their own energy with renewable energy sources;

(c) By producing their own energy with renewable energy sources, some school districts have reduced their energy costs while promoting energy independence and environmental responsibility and have provided students with an opportunity to understand this burgeoning technology; and

(d) Some school districts have also reduced their energy costs by improving the efficiency of their existing energy sources.

(2) The general assembly further finds that section 3 of article IX of the state constitution authorizes the general assembly to adopt laws establishing the terms and conditions upon which the state treasurer may make loans to school districts in order to assist public schools in providing necessary buildings, land, and equipment.

(3) Now, therefore, the general assembly determines and declares that it would serve the best interests of Colorado schools for the state to make available loans to support the efforts of school districts that choose to undertake renewable energy projects or energy-efficient bus projects. Furthermore, to ensure that the best interests of Colorado schools are being served, the legislative service agencies of the general assembly shall conduct a post-enactment review of this act and report their conclusions to the education committees of the house of representatives and senate, or any successor committees. The review shall include consideration of the following information:

(a) The name and location of each qualified school district that has applied for a loan from the loan program;

(b) The number of loans that have been awarded to qualified school districts from the loan program;

(c) The name and location of each qualified school district that has been awarded a loan from the loan program;

(d) The amount of each loan that is awarded to a qualified school district from the loan program;

(e) The terms of repayment for each loan that is awarded to a qualified school district from the loan program;

(f) The rate of interest that is being charged on each loan that is awarded to a qualified school district from the loan program; and

(g) Any other information that the legislative service agencies determine may be helpful to the education committees of the house of representatives and senate, or any successor committees, in evaluating the effectiveness of the loan program.

**Source: L. 2009:** Entire article added, (HB 09-1312), ch. 253, p. 1138, § 1, effective August 5.

**22-92-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Bank" shall have the same meaning as set forth in section 11-101-401 (5), C.R.S.

(1.5) "Colorado energy office" or "office" means the Colorado energy office created in section 24-38.5-101, C.R.S., or any successor office.

(2) "Energy-efficient bus project" means a project to help a qualified school district attain and employ battery-powered, compressed natural gas, propane gas, or hybrid-electric buses in its daily transportation operations for the purpose of reducing energy consumption and expenditures.

(3) Repealed.

(4) "Public school fund" means the public school fund created and existing pursuant to section 3 of article IX of the state constitution.

(5) "Qualified school district" means a school district in the state that has a renewable energy project team.

(6) "Renewable energy and energy efficiency for schools loan program" or "loan program" means the renewable energy and energy efficiency for schools loan program created in section 22-92-104.



(7) "Renewable energy and energy efficiency for schools loan program administration fund" or "fund" means the renewable energy and energy efficiency for schools loan program administration fund created in section 22-92-106.

(8) "Renewable energy project" means a project to help a qualified school district install equipment and related infrastructure that will help defray the school district's energy costs and provide educational opportunities for students relating to the generation of renewable energy. A "renewable energy project" shall be operated in compliance with existing laws and may incorporate one or more of the following:

- (a) Wind energy;
- (b) Solar energy; or
- (c) Other sources of renewable energy.

(9) "Renewable energy project team" means a team of people who are dedicated to a renewable energy project at a school district. A renewable energy project team shall include, at a minimum, representatives of the school district, representatives of the local community, and at least one member who provides professional technical assistance to the school district to facilitate a renewable energy project or an energy-efficient bus project. The member of a renewable energy project team who provides professional technical assistance to the school district may be a representative of a local electrical utility.

**Source:** L. 2009: Entire article added, (HB 09-1312), ch. 253, p. 1139, § 1, effective August 5. L. 2012: (1.5) added and (3) repealed, (HB 12-1315), ch. 224, p. 959, § 8, effective July 1.

**22-92-104. Renewable energy and energy efficiency for schools loan program - created - applications - permissible uses of loans.** (1) There is hereby created the renewable energy and energy efficiency for schools loan program to fund renewable energy projects and energy-efficient bus projects at qualified school districts. A qualified school district may, with the written authorization of the school district board of education, apply to the Colorado energy office, in accordance with procedures and deadlines established by rules promulgated by the state board of education pursuant to section 22-92-105, to receive moneys through the loan program. The office shall administer the loan program as provided in this article and pursuant to the policies adopted by the office.

(2) If a qualified school district applies for a loan from the loan program pursuant to subsection (1) of this section, and the state treasurer authorizes a loan for the school district pursuant to section 22-92-107, the school district shall not accept the loan unless the school district has first determined what financing terms are available to it from at least two banks.

(3) (a) A qualified school district that receives a loan through the loan program shall use the moneys received to pay for technical assistance, equipment, or installation costs associated with a renewable energy project or an energy-efficient bus project.

(b) A qualified school district that receives a loan through the loan program for a renewable energy project may use the moneys received to finance the acquisition of a renewable energy project.

(4) A qualified school district that applies for a loan through the loan program for a renewable energy project shall contact its local electrical utility and allow the utility, at the utility's discretion, to place a representative of the utility on the school district's renewable energy project team.

(5) A qualified school district may apply for a loan from the loan program for a renewable energy project or an energy-efficient bus project that is located at a charter school of the school district.

**Source:** L. 2009: Entire article added, (HB 09-1312), ch. 253, p. 1140, § 1, effective August 5. L. 2012: (1) amended, (HB 12-1315), ch. 224, p. 959, § 9, effective July 1.

**22-92-105. Renewable energy and energy efficiency for schools loan program - rules - awarding loans.** (1) On or before October 15, 2009, the state board of education, in consultation with the Colorado energy office, shall promulgate rules establishing policies

and procedures for the administration of the renewable energy and energy efficiency for schools loan program. At a minimum, the rules shall include:

(a) Policies specifying the procedures by which a qualified school district may apply for a loan, the form of the loan application, the information to be provided by an applicant, and the criteria used by the office for awarding and denying loans;

(b) The requirements that the office shall require of loan applicants, which requirements shall include, but need not be limited to a requirement that a loan applicant submit with its application:

(I) An energy rating for the facility for which the loan is intended that demonstrates that the facility qualifies for the federal energy star label, which rating has been issued as a result of an audit performed by a qualified energy efficiency auditor; or

(II) An energy efficiency plan that is created in consultation with the office, which plan includes:

(A) Cost-effective energy-saving measures and programs that the applicant will implement; and

(B) Actions that the applicant will take to implement, monitor, review, and revise the plan.

(2) (a) The Colorado energy office shall review each loan application received from a qualified school district pursuant to section 22-92-104 (1), evaluate the renewable energy project or energy-efficient bus project described therein, and make a recommendation to the state treasurer as to whether to award the loan and the amount of the loan. If the office determines an application is missing any information required by the office's policy to be included with the application, the office may contact the applicant to obtain the missing information.

(b) In reviewing loan applications for renewable energy projects and energy-efficient bus projects pursuant to paragraph (a) of this subsection (2), the Colorado energy office shall consider, at a minimum, whether a qualified school district would reduce its energy costs by the implementation of the renewable energy project or energy-efficient bus project that is the subject of each loan application.

(3) The state treasurer is authorized to require each qualified school district that receives a loan from the loan program to pay to the Colorado energy office a fee that reflects the direct and indirect costs incurred by the state treasurer in administering loans pursuant to section 22-92-107. If the state treasurer elects to impose a fee pursuant to this subsection (3), he or she shall notify the Colorado energy office and the state board of education of the decision to impose the fee. A fee imposed pursuant to this subsection (3) may be imposed on a regularly scheduled basis to be determined by the state treasurer. A qualified school district that receives a loan from the loan program shall be required to pay the fee until the loan is repaid in full.

(4) If the state treasurer elects to impose a fee as part of the loan application process pursuant to subsection (3) of this section, the Colorado energy office shall forward all moneys received as fees to the state treasurer.

**Source: L. 2009:** Entire article added, (HB 09-1312), ch. 253, p. 1141, § 1, effective August 5. **L. 2012:** IP(1), (2), (3), and (4) amended, (HB 12-1315), ch. 224, p. 960, § 10, effective July 1.

**22-92-106. Renewable energy and energy efficiency for schools loan program administration fund - creation - administrative costs.** (1) There is hereby created in the state treasury the renewable energy and energy efficiency for schools loan program administration fund. The fund shall consist of:

(a) Moneys appropriated to the fund from the public school energy efficiency fund created in section 39-29-109.5 (2), C.R.S.;

(b) Any other moneys appropriated by the general assembly to the fund;

(c) Any gifts, grants, or donations received by the office for the fund pursuant to subsection (4) of this section; and

(d) Any other moneys directed to the fund by the office pursuant to subsection (5) of this section.



(2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs incurred by the office in administering the program pursuant to this article. The moneys in the fund shall not be included in any loan made to a qualified school district pursuant to this article.

(3) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(4) The office may seek and accept gifts, grants, and donations from public and private sources to fund the program, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the program. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(5) To the extent permitted by law, the office may, at its discretion, direct other moneys to fund the program.

**Source: L. 2009:** Entire article added, (HB 09-1312), ch. 253, p. 1142, § 1, effective August 5.

**22-92-107. Loans from public school fund authorized.** (1) As authorized under the provisions of section 3 of article IX of the state constitution, the state treasurer may make loans to school districts to assist them in providing necessary buildings, land, and equipment, including renewable energy projects and energy-efficient bus projects as described in this article. Loans made pursuant to this article shall not be subject to the provisions of section 24-36-113, C.R.S., that require the state treasurer to secure the maximum rate of interest on investments of state moneys. The procedures for the making of loans shall be determined by the state treasurer subject to the following:

(a) No loan shall be authorized for any renewable energy project or energy-efficient bus project that has not been evaluated by the Colorado energy office pursuant to section 22-92-105 (2) (a).

(b) No loan shall be authorized in an amount exceeding the amount recommended by the Colorado energy office pursuant to section 22-92-105 (2) (a) unless the Colorado energy office approves the change in the loan amount.

(c) No loan shall be authorized unless the method for repayment of the loan is specified in the application.

(2) (a) Subject to the limitations described in this section, the state treasurer shall determine the amount of the permanent school fund that may be loaned out pursuant to this section, which qualified school districts shall receive loans, the amount of each loan, the terms of repayment of each loan, and the rate of interest to be charged on loans. The average rate of interest charged on loans made in any calendar year must exceed the average book yield earned by the fund in the most recently completed quarter. Payments of the principal of and interest on all loans shall be returned to the public school fund.

(b) The state treasurer may include, as part of any loan agreement with any qualified school district, whatever terms and conditions he or she feels are necessary to protect the principal of the public school fund against loss.

(3) The general assembly shall appropriate money from the general fund to restore moneys to the public school fund, together with interest, that are lost by reason of the failure of any school district to repay a loan made pursuant to this section.

(4) Administrative costs that will be incurred by a qualified school district as a result of the renewable energy project or energy-efficient bus project that is the basis for the loan may be included in the amount of the loan.

**Source: L. 2009:** Entire article added, (HB 09-1312), ch. 253, p. 1143, § 1, effective August 5. **L. 2012:** (1)(a) and (1)(b) amended, (HB 12-1315), ch. 224, p. 961, § 11, effective July 1.

## ARTICLE 93

### School Bullying Prevention and Education Grant Program

22-93-101.	Definitions.	22-93-104.	Rules.
22-93-102.	School bullying prevention and education grant program - created.	22-93-105.	School bullying prevention and education cash fund - created.
22-93-103.	School bullying prevention and education grant program - grant process - reports by grant recipients.	22-93-106.	School bullying prevention and education - availability of best practices and other resources.

**22-93-101. Definitions.** As used in this article, unless the context otherwise requires:

- (1) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1) (b).
- (2) "Cash fund" means the school bullying prevention and education cash fund created in section 22-93-105.
- (3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.
- (4) "Facility school" means an approved facility school, as defined in section 22-2-402 (1).
- (5) "Program" means the school bullying prevention and education grant program created in section 22-93-102.
- (6) "Public school" means a school of a school district, a district charter school, an institute charter school, or a board of cooperative services, as defined in section 22-5-103.
- (7) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 647, § 1, effective May 13. **L. 2012:** (1) amended, (HB 12-1345), ch. 188, p. 750, § 44, effective May 19.

**Cross references:** (1) For the legislative declaration in the 2012 act amending subsection (1), see section 21 of chapter 46, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

#### **22-93-102. School bullying prevention and education grant program - created.**

(1) There is hereby created in the department the school bullying prevention and education grant program. Under the program, on and after July 1, 2012, or not more than ninety days after the promulgation of rules by the state board pursuant to section 22-93-104, whichever is later, a public school, a facility school, or a collaborative group of public schools or facility schools may apply for a grant to fund efforts to reduce the frequency of bullying incidents. The department shall administer the program in consultation with the school safety resource center created in section 24-33.5-1803, C.R.S.

(2) Notwithstanding any other provision of this article, the department shall not be required to implement the provisions of this article until sufficient moneys have been transferred or appropriated to the cash fund.

(3) The department is hereby authorized to hire any employees necessary to carry out the duties associated with the provisions of this article. The creation of any new positions of employment within the department pursuant to this article shall be subject to the availability of sufficient moneys in the cash fund and shall be eliminated when sufficient moneys are no longer available in the cash fund. The department shall ensure that all position descriptions and notices to hire for positions created pursuant to this article clearly state that such positions are subject to the availability of sufficient moneys in the cash fund.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 648, § 1, effective May 13.



**22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients.** (1) The department shall solicit and review applications from public schools and facility schools for grants pursuant to this section. The department may award grants to public schools, facility schools, and collaborative groups of public schools and facility schools for periods of one to three years.

(2) Each application, at a minimum, shall describe how the applicant public school, facility school, or collaborative group of public schools or facility schools will use any awarded grant moneys to reduce the frequency of bullying incidents. Each grant recipient shall use its grant moneys to supplement and not supplant any moneys currently being used by the grant recipient to reduce the frequency of bullying incidents.

(3) The department shall select those public schools, facility schools, and collaborative groups of public schools and facility schools that will receive grants pursuant to this section and the duration and amount of each grant. In selecting the grant recipients, the department, at a minimum, shall take into account the criteria established by rules promulgated by the state board pursuant to section 22-93-104 (1) (b).

(4) On or before a date specified by rule of the state board pursuant to section 22-93-104 (1) (d), the department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

- (a) The number of grant recipients that received grants under the program;
- (b) The amount of each grant awarded to each grant recipient;
- (c) The average amount of each grant awarded under the program;
- (d) The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and
- (e) The source and amount of each gift, grant, and donation received by the department for the implementation of this article pursuant to section 22-93-105 (3) (b).

(5) In selecting grant recipients, the department, to the extent possible, shall ensure that grants are awarded to public schools, facility schools, and collaborative groups of public schools and facility schools in a variety of geographic areas of the state.

(6) Each grant recipient shall submit a written report to the department not later than six months after the expiration of the term of the grant concerning the effectiveness or ineffectiveness of each use of grant moneys by the grant recipient in reducing the frequency of bullying incidents.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 648, § 1, effective May 13.

**22-93-104. Rules.** (1) On or before April 1, 2012, or not more than ninety days after the department receives sufficient moneys to implement this article as described in section 22-93-102 (2), whichever is later, the state board shall promulgate rules for the administration of this article, including but not limited to:

- (a) Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants pursuant to this article;
- (b) Criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient, which criteria, at a minimum, shall require each grant recipient to:

(I) Use awarded grant moneys for purposes that are based upon evidence-based best practices for preventing bullying;

(II) Use at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education and the grant recipient's ongoing efforts to reduce the frequency of bullying incidents; and

(III) Adopt a specific policy concerning bullying education and prevention that includes:

(A) Provisions for the biennial administration of surveys of students' impressions of the severity of bullying in their schools, the administration of which surveys, at a minimum, shall satisfy the rules promulgated by the state board pursuant to paragraph (c) of this subsection (1); and

(B) The designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

(c) Rules for the administration of surveys of students' impressions of the severity of bullying in their schools, which procedures, at a minimum, shall include:

(I) Procedures for the distribution, collection, standardization, and analysis of data collected in each survey, which procedures shall ensure the confidentiality of each student's answers to the survey and clarify that the completion of a survey shall be voluntary and shall not be required of any student;

(II) Certain questions that each survey shall ask of each student concerning how frequently the student witnesses bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying; and

(III) Provisions to ensure that, to the extent practicable, a school district or school, including a district charter school or an institute charter school, may utilize existing forms and procedures in administering the surveys.

(d) The designation of a date by which the department shall annually submit to the state board and to the education committees of the senate and house of representatives, or any successor committees, the information described in section 22-93-103 (4).

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 649, § 1, effective May 13.

#### **22-93-105. School bullying prevention and education cash fund - created.**

(1) There is hereby established in the state treasury the school bullying prevention and education cash fund. The cash fund shall consist of moneys transferred thereto pursuant to subsection (3) of this section and any other moneys that may be made available by the general assembly. The moneys in the cash fund are continuously appropriated to the department for the direct and indirect costs associated with implementing this article. Any moneys not provided as grants may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the cash fund shall be credited to the cash fund. Any amount remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or to any other fund.

(2) No more than five percent of the moneys annually expended from the cash fund may be used for the expenses incurred by the department in administering this article.

(3) (a) No general fund moneys shall be appropriated to the cash fund for the implementation of this article.

(b) The department may seek, accept, and expend public or private gifts, grants, and donations from public and private sources to implement this article; except that the department shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with the provisions of this article or any other law of the state. The department shall transfer all private and public moneys received through gifts, grants, and donations to the state treasurer, who shall credit the same to the cash fund.

(4) Nothing in this section shall be interpreted to require the department to solicit moneys for the purposes of this article.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 651, § 1, effective May 13.



**22-93-106. School bullying prevention and education - availability of best practices and other resources.** (1) On or before November 1, 2011, the department shall create a page on its public web site at which the department shall continuously make publicly available evidence-based best practices and other resources for educators and other professionals engaged in bullying prevention and education.

(2) The department shall solicit evidence-based best practices and other resources from the school safety resource center created in section 24-33.5-1803, C.R.S.; from school districts; from the state charter school institute established in section 22-30.5-503; and from other state and federal agencies that are concerned with school bullying prevention and education. The department shall review materials that it receives and, as may be appropriate, make such materials available to the public on the web site described in subsection (1) of this section.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 651, § 1, effective May 13.





**TITLE 23**

**POSTSECONDARY EDUCATION**

Q. 3417

Q. 3417. (1941) (1941) (1941) (1941)



# TITLE 23

## POSTSECONDARY EDUCATION

**Cross references:** For private occupational schools, see article 59 of title 12; for the inclusion of every state institution of higher education within the definition of institution for purposes of the public records law, see § 24-72-202 (1.5); for the “Concurrent Enrollment Programs Act”, see article 35 of title 22.

### STATE UNIVERSITIES AND COLLEGES

#### General and Administrative

- Art. 1. Colorado Commission on Higher Education, 23-1-101 to 23-1-131.
- Art. 1.5. Statewide Enrollment Plan (Repealed).
- Art. 2. Degrees - Honorary - Academic Achievement, 23-2-101 to 23-2-105.
- Art. 3. Higher and Vocational Education Loan Guarantee Act, 23-3-101 to 23-3-107.
- Art. 3.1. Student Loan Program, 23-3.1-101 to 23-3.1-310.
- Art. 3.3. Student Financial Assistance, 23-3.3-101 to 23-3.3-901.
- Art. 3.5. Colorado Student Incentive Grant Program, 23-3.5-101 to 23-3.5-106.
- Art. 3.6. Health Care Professionals Loan Programs, 23-3.6-101 to 23-3.6-205.
- Art. 3.7. Tuition Assistance Grant Program, 23-3.7-101 to 23-3.7-107.
- Art. 3.8. Teacher Tuition Scholarship Loan Program (Repealed).
- Art. 3.9. Teacher Loan Forgiveness Program, 23-3.9-101 to 23-3.9-104.
- Art. 4. Trafficking in Academic Materials, 23-4-101 to 23-4-106.
- Art. 5. General Provisions, 23-5-101 to 23-5-141.
- Art. 6. Higher Education Emeritus Retirement Benefits, 23-6-101 to 23-6-104.
- Art. 7. Classification of Students for Tuition Purposes, 23-7-101 to 23-7-111.
- Art. 7.5. Tuition for Critical Services Programs (Repealed).
- Art. 8. State Assistance for Career and Technical Education, 23-8-101 to 23-8-105.
- Art. 9. State Council on the Arts (Repealed).
- Art. 10. Termination of Employment - Faculty Members (Repealed).
- Art. 11. Colorado Advanced Technology Institute (Repealed).
- Art. 11.5. Technology Learning Grant and Revolving Loan Program (Repealed).
- Art. 12. Reorganization of Governance of Higher Education (Repealed).
- Art. 13. Higher Education Statewide Expectations and Goals and Quality Indicator System (Repealed).
- Art. 15. Colorado Educational and Cultural Facilities Authority, 23-15-101 to 23-15-131.
- Art. 16. Limitation on Athlete Agents, 23-16-101 to 23-16-221.
- Art. 17. Colorado High Technology Scholarship Program (Repealed).
- Art. 18. College Opportunity Fund, 23-18-101 to 23-18-208.
- Art. 19. Nursing Faculty Fellowship Program (Repealed).
- Art. 19.5. Colorado Higher Education Student Suicide Prevention Act (Repealed).
- Art. 19.7. Higher Education Competitive Research Authority, 23-19.7-101 to 23-19.7-104.
- Art. 19.9. Higher Education Federal Mineral Lease Revenues and Higher Education Maintenance and Reserve Funds, 23-19.9-101 and 23-19.9-102.

#### State Universities and Colleges

- Art. 20. University of Colorado, 23-20-101 to 23-20-208.
- Art. 20.3. Communications and Information Technology (Repealed).

- Art. 20.5. Dental School, 23-20.5-101.
- Art. 21. University of Colorado University Hospital - Centers, 23-21-101 to 23-21-604.
- Art. 22. Psychiatric Hospital, 23-22-101 to 23-22-111.
- Art. 23. Children's Diagnostic Center, 23-23-101 to 23-23-108.
- Art. 30. Board of Governors of the Colorado State University System, 23-30-101 to 23-30-124.
- Art. 31. Colorado State University, 23-31-101 to 23-31-804.
- Art. 31.3. Colorado State University - Global Campus, 23-31.3-101 to 23-31.3-107.
- Art. 31.5. Colorado State University - Pueblo, 23-31.5-101 to 23-31.5-111.
- Art. 32. Cooperation with United States (Repealed).
- Art. 33. Experiment Stations (Repealed).
- Art. 34. Colorado Cooperative Extension Service (Repealed).
- Art. 35. Colorado Water Resources Research Institute (Repealed).
- Art. 40. University of Northern Colorado, 23-40-101 to 23-40-106.
- Art. 41. School of Mines, 23-41-101 to 23-41-210.
- Art. 50. State Colleges - General Provisions (Repealed).
- Art. 51. Adams State University, 23-51-101 to 23-51-110.
- Art. 52. Fort Lewis College - Grand Junction School, 23-52-101 to 23-52-202.
- Art. 53. Colorado Mesa University, 23-53-101 to 23-53-112.
- Art. 54. Metropolitan State University of Denver, 23-54-101 to 23-54-104.
- Art. 55. Colorado State University - Pueblo (Repealed).
- Art. 56. Western State Colorado University, 23-56-101 to 23-56-111.

## COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

- Art. 60. Community Colleges and Occupational Education, 23-60-101 to 23-60-802.
- Art. 61. Community College of Denver (Repealed).
- Art. 61.5. Area Vocational Districts, 23-61.5-101 to 23-61.5-203.
- Art. 62. Pikes Peak Community College (Repealed).
- Art. 63. Community College of Aurora (Repealed).

## EDUCATIONAL CENTERS AND JUNIOR COLLEGES

- Art. 70. Auraria Higher Education Center, 23-70-101 to 23-70-116.
- Art. 71. Junior Colleges, 23-71-101 to 23-71-713.
- Art. 72. Affiliated Junior College Districts (Repealed).
- Art. 73. Colorado Institute of Technology (Repealed).

## EDUCATIONAL PROGRAMS

- Art. 74. Southern Colorado Council for Excellence in Health Careers Education (Repealed).

## STATE UNIVERSITIES AND COLLEGES

### General and Administrative

### ARTICLE 1

#### Colorado Commission on Higher Education

**Editor's note:** This article was numbered as article 22 of chapter 124 in C.R.S. 1963. The provisions of this article were repealed and reenacted in 1985, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and



supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Cross references:** For present provisions and requirements of a work-study program, see part 4 of article 3.3 of this title; for present provisions of an undergraduate fellowship program, see part 6 of article 3.3 of this title.

23-1-101.	Legislative declaration.	23-1-109.3.	Duties and powers of the commission with regard to student data - memorandum of understanding.
23-1-101.1.	Definitions.		
23-1-102.	Commission established - terms of office.		
23-1-103.	Advisory committee to the Colorado commission on higher education.	23-1-109.5.	Duties and powers of the commission with regard to fiscal accountability. (Repealed)
23-1-103.5.	Establishment of annual allowable cash fund revenues and expenditures by general assembly. (Repealed)	23-1-109.7.	Duties and powers of the commission with regard to the provision of educational services.
23-1-104.	Financing the system of post-secondary education - report - repeal.	23-1-110.	Organization, meetings, and staff.
23-1-105.	Duties and powers of the commission with respect to appropriations.	23-1-110.5.	Study of higher education organization - legislative declaration - issues - report - repeal. (Repealed)
23-1-105.5.	Duties and powers of the commission with respect to student fees - report.	23-1-111.	Commission study - governance and administration of vocational and occupational education. (Repealed)
23-1-106.	Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - definitions.	23-1-112.	Tuition - reciprocal agreements.
23-1-106.3.	Duties and powers of the commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund.	23-1-113.	Commission directive - admission standards for baccalaureate and graduate institutions of higher education - policy - definitions.
23-1-106.5.	Duties and powers of the commission with regard to advanced technology - fund created. (Repealed)	23-1-113.2.	Commission directive - admission standards for students holding international baccalaureate diplomas.
23-1-106.7.	Duties and powers of the commission with respect to technology transfers.	23-1-113.3.	Commission directive - basic skills courses.
23-1-107.	Duties and powers of the commission with respect to program approval, review, reduction, and discontinuance.	23-1-113.5.	Commission directive - resident admissions.
23-1-108.	Duties and powers of the commission with regard to systemwide planning.	23-1-113.7.	Commission directive - nursing programs - employer-based gift and scholarship fund - legislative declaration.
23-1-108.5.	Duties and powers of the commission with regard to common course numbering system - repeal.	23-1-114.	Commission directive - study of role of state board for community colleges and occupational education and the local councils. (Repealed)
23-1-109.	Duties and powers of the commission with regard to off-campus instruction.	23-1-115.	Commission directive - review and action on existing degree programs. (Repealed)
		23-1-116.	Commission directive - education degree programs. (Repealed)
		23-1-117.	Commission directive - ad-

	ministrative expense reduction. (Repealed)	23-1-122.	Commission directive - separately funded policy areas. (Repealed)
23-1-118.	Commission directive - programs of excellence.	23-1-122.1.	Commission directive - separately funded policy areas - fiscal years 1996-97 and 1997-98. (Repealed)
23-1-119.	Department directive - transition between K-12 education system and postsecondary education system.	23-1-123.	Commission directive - fee policies - definitions. (Repealed)
23-1-119.1.	Department directive - notice of postsecondary educational opportunities and higher education admission guidelines.	23-1-124.	Commission directive - sophomore assessments. (Repealed)
23-1-119.2.	Commission directive - notice of college preparatory courses for high school students.	23-1-125.	Commission directive - student bill of rights - degree requirements - implementation of core courses - competency test - prior learning.
23-1-120.	Commission directive - incentives for improvement initiative grants.	23-1-126.	Commission directive - nursing programs.
23-1-121.	Commission directive - approval of teacher preparation programs - review.	23-1-127.	Commission directive - regional education providers - criteria.
23-1-121.1.	Commission directive - approval of principal preparation programs - repeal. (Repealed)	23-1-128.	Commission directive - American sign language in higher education institutions.
23-1-121.3.	Commission directive - principal and administrator preparation programs. (Repealed)	23-1-129.	Commission directive - student loans.
23-1-121.5.	Commission directive - education in special education. (Repealed)	23-1-130.	Department duty to report on workforce needs and credential production - repeal.
23-1-121.7.	Commission directive - paraprofessional programs.	23-1-131.	Commission directive - associate degree completion program - legislative declaration - definitions.

**23-1-101. Legislative declaration.** The purposes of this article are to maximize opportunities for postsecondary education in Colorado; to avoid and to eliminate needless duplication of facilities and programs in state-supported institutions of higher education; to achieve simplicity of state administrative procedures pertaining to higher education; to effect the best utilization of available resources so as to achieve an adequate level of higher education in the most economic manner; to accommodate state priorities and the needs of individual students through implementation of a statewide enrollment plan; and to continue to recognize the constitutional and statutory responsibilities of duly constituted governing boards of state-supported institutions of higher education in Colorado. In this article, express powers and duties are delegated to a central policy and coordinating board, the Colorado commission on higher education, and the department of higher education is responsible for implementing the duly adopted policies of the Colorado commission on higher education. The ultimate authority and responsibility is expressly reserved to the general assembly, and it is the duty of the Colorado commission on higher education and the department of higher education to implement the policies of the general assembly.

**Source:** L. 85: Entire article R&RE, p. 750, § 1, effective July 1. L. 94: Entire section amended, p. 1792, § 1, effective May 31. L. 2008: Entire section amended, p. 1470, § 1, effective May 28.

**Editor's note:** This section is similar to former § 23-1-101 as it existed prior to 1985.



**23-1-101.1. Definitions.** As used in this article, unless the context otherwise requires:

- (1) "Commission" means the Colorado commission on higher education created and existing pursuant to this article.
- (2) "Department of higher education" or "department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.
- (3) "Executive director" means the office of the executive director of the Colorado commission on higher education created and existing pursuant to section 24-1-114, C.R.S.

**Source: L. 2008:** Entire section added, p. 1470, § 2, effective May 28.

**23-1-102. Commission established - terms of office.**

- (1) Repealed.

(2) There is hereby established a central policy and coordinating board for higher education in the state of Colorado, to be known as the Colorado commission on higher education, referred to in this article as the "commission". The duties and powers delegated to the commission by this article shall apply to all state-supported institutions of higher education, including, but not limited to, all postsecondary institutions in the state supported in whole or part by state funds, and including junior colleges and community colleges, extension programs of the state-supported universities and colleges, local district colleges, area vocational schools, the Auraria higher education center established in article 70 of this title, and specifically the regents of the university of Colorado and the institutions it governs. The governing boards and institutions of the public system of higher education in Colorado, including the university of Colorado, are obligated to conform to the policies set by the commission within the authorities delegated to it in this article.

(3) (a) The commission shall consist of eleven members to be appointed by the governor with the consent of the senate. The members of the commission shall be selected on the basis of their knowledge of and interest in higher education and shall serve for four-year terms; except that, of the members first appointed to the commission, five members shall serve for terms of two years, and four members shall serve for terms of four years. No member of the commission may serve more than two consecutive full four-year terms.

- (b) Repealed.

(4) At the time of appointment, no member of the commission shall have been an officer, employee, or member of a governing board or an officer or employee of any state-supported institution of higher education in the state for a period of one year prior to his or her appointment. During his or her term of office, no member of the commission shall be a member of the general assembly or an officer, employee, or member of a governing board or an officer or employee of a state-supported institution of higher education.

(5) The commission shall at no time have more than six members of any one major political party. Members of the commission shall receive seventy-five dollars per diem for attendance at official meetings plus actual and necessary expenses incurred in the conduct of official business. In appointing members of the commission, the governor shall consider geographic representation. Of the eleven members of the commission, at least one shall be from each congressional district, and at least one member of the commission shall reside west of the continental divide.

(6) The commission shall meet as often as necessary to carry out its duties as defined in this article.

(7) The term of any member of the commission who misses more than two consecutive regular commission meetings without good cause shall be terminated and his successor appointed in the manner provided for appointments under this section.

(8) (a) Notwithstanding other provisions of this section, on or after July 1, 1999, the governor, with the consent of the senate, shall appoint two additional members to the commission for terms ending on June 30, 2003. Thereafter, members appointed pursuant to this subsection (8) shall serve for terms of four years.

- (b) (Deleted by amendment, L. 2000, p. 412, § 2, effective April 13, 2000.)

**Source:** **L. 85:** Entire article R&RE, p. 750, § 1, effective July 1. **L. 88:** (3) amended, p. 840, § 1, effective April 20. **L. 96:** (6) amended, p. 1834, § 10, effective June 5. **L. 99:** (8) added, p. 880, § 4, effective July 1. **L. 2000:** (8) amended, p. 412, § 2, effective April 13. **L. 2001:** (3)(a), (4), and (5) amended, p. 145, § 1, effective March 23. **L. 2004:** (3)(b) repealed, p. 201, § 15, effective August 4. **L. 2005:** (1) repealed, p. 277, § 5, effective August 8. **L. 2012:** (2) amended, (SB 12-040), ch. 118, p. 401, § 1, effective April 16.

**Editor's note:** This section is similar to former § 23-1-102 as it existed prior to 1985.

**23-1-103. Advisory committee to the Colorado commission on higher education.**

(1) There is hereby established an advisory committee to the commission for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly and the governing boards for state-supported institutions of higher education. The advisory committee shall consist of not less than thirteen members, to be designated as follows:

(a) (I) Six members shall be appointed from the general assembly, including three senators, two of whom shall be from the majority party, appointed by the president of the senate, and one of whom shall be from the minority party, appointed by the senate minority leader, and three representatives, two of whom shall be from the majority party, appointed by the speaker of the house of representatives, and one of whom shall be from the minority party, appointed by the minority leader of the house of representatives. Except as provided in subparagraph (II) of this paragraph (a), the six members shall be appointed for terms of two years.

(II) The terms of the members appointed by the speaker of the house of representatives and the president of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and the president shall each appoint or reappoint successors in the same manner as provided in subparagraph (I) of this paragraph (a). Thereafter, the terms of members appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker and the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(b) One member shall be selected and designated by the commission to represent the faculty in the state and one member shall be selected and designated by the commission to represent the students in the state. On and after August 5, 2009, the commission shall select and designate one member who, at the time of designation, is a parent of a student who is enrolled in a state-supported institution of higher education in Colorado to represent the parents of students.

(c) Not more than four additional members representing educational or other groups may be selected and designated by the commission to serve on the advisory committee.

(2) Legislative and other members of the advisory committee not otherwise compensated by the state or a public educational institution shall receive thirty dollars per diem for attendance at official meetings plus reimbursement for actual and necessary expenses incurred in the conduct of official business.

(3) All members of the advisory committee shall receive agendas and background material and be notified of all public meetings of the commission and shall be invited to attend for the purpose of suggesting solutions for the problems and needs of higher education and maintaining liaison with the general assembly.

(4) In addition to any attendance at commission meetings, the committee shall meet as often as necessary to provide assistance to the commission.

(5) Repealed.



**Source:** **L. 85:** Entire article R&RE, p. 751, § 1, effective July 1. **L. 86:** (5) amended, p. 412, § 20, effective March 26. **L. 89:** (5) repealed, p. 1147, § 3, effective April 6. **L. 2007:** (1)(a) amended, p. 180, § 12, effective March 22. **L. 2008:** (1)(a)(I) amended, p. 1471, § 3, effective May 28. **L. 2009:** (1)(b) and (1)(c) amended, (SB 09-090), ch. 291, p. 1441, § 9, effective August 5.

**Editor's note:** This section is similar to former § 23-1-103 as it existed prior to 1985.

#### **23-1-103.5. Establishment of annual allowable cash fund revenues and expenditures by general assembly. (Repealed)**

**Source:** **L. 93:** Entire section added, p. 1510, § 13, effective June 6; entire section added, p. 2121, § 1, effective June 11. **L. 2003:** (2) amended, p. 480, § 1, effective March 5. **L. 2008:** Entire section repealed, p. 117, § 1, effective March 19.

**23-1-104. Financing the system of postsecondary education - report - repeal.**  
(1) (a) (I) For fiscal years 2011-12 through 2015-16, the general assembly shall make annual appropriations of moneys that are estimated to be received by an institution, under the direction and control of the governing board, as stipends, as defined in section 23-18-102, and through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-5-130, as a single line item to each governing board for the operation of its campuses; except that, if the general assembly appropriates moneys, as described in paragraph (c) of this subsection (1), to the Colorado state forest service, the agricultural experiment station department of the Colorado state university, or the Colorado state university cooperative extension service, such moneys shall not be included within the single line item appropriations described in this paragraph (a).

(II) This paragraph (a) is repealed, effective July 1, 2016.

(b) (I) For the 2010-11 fiscal year and for fiscal years beginning on or after July 1, 2016, the general assembly shall make annual appropriations of general fund moneys, of cash funds received from tuition income, and of moneys that are estimated to be received by an institution, under the direction and control of the governing board, as stipends, as defined in section 23-18-102, and through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-5-130, as a single line item to each governing board for the operation of its campuses; except that, if the general assembly appropriates moneys, as described in paragraph (c) of this subsection (1), to the Colorado state forest service, the agricultural experiment station department of the Colorado state university, or the Colorado state university cooperative extension service, such moneys shall not be included within the single line item appropriations described in this paragraph (b).

(II) For the 2010-11 fiscal year and for fiscal years beginning on or after July 1, 2016, the general assembly shall also make annual appropriations of cash funds, other than cash funds received as tuition income or as fees, as a single line item to each governing board for the operation of its campuses. Each governing board shall allocate said cash fund appropriations to the institutions under its control in the manner deemed most appropriate by the governing board.

(c) In addition to any appropriations made pursuant to paragraph (a) or (b) of this subsection (1), the general assembly may make annual appropriations of general fund moneys and of moneys received pursuant to a fee-for-service contract negotiated by the board of governors of the Colorado state university system and the department of higher education, as described in section 23-5-130, as separate line items to:

(I) The Colorado state forest service described in part 3 of article 31 of this title;

(II) The agricultural experiment station department of the Colorado state university described in part 6 of article 31 of this title; and

(III) The Colorado state university cooperative extension service described in part 7 of article 31 of this title.

(d) In accordance with the provisions of section 5 of article VIII of the state constitution, the governing boards of the state institutions of higher education shall have control and

direction of any moneys received by their respective institutions in addition to the moneys appropriated pursuant to this subsection (1), unless otherwise provided by statute.

(2) Notwithstanding any provision of this section to the contrary, beginning in the 2011-12 fiscal year and for each fiscal year thereafter through the 2020-21 fiscal year, the general assembly shall appropriate moneys to the governing board of the Colorado school of mines in accordance with section 23-41-104.7, through fee-for-service contracts, as authorized in sections 23-1-109.7 and 23-5-130, and as stipends, as defined in section 23-18-102, as a single line item to said governing board.

(3) (a) Notwithstanding the provisions of section 24-75-102, C.R.S., the governing boards are authorized to retain all moneys appropriated pursuant to this section and section 23-1-118, or otherwise generated, from fiscal year to fiscal year.

(b) All moneys raised by a governing board shall be available for expenditure by such governing board and shall not be transferred or otherwise made available for expenditure by any other governing board or by a state entity or state agency; except that said moneys may be transferred to the department of higher education or the Colorado commission on higher education to the extent required to pay indirect cost assessments, as defined in section 24-75-112 (1) (f), C.R.S.

(4) (a) On or before November 10, 2010, each governing board shall submit to the commission and to the joint budget committee of the general assembly a report describing, with regard to each institution under its governance, the governing board's plans to fund the institution in the following fiscal year if the general assembly reduces overall state funding for higher education by fifty percent.

(b) Each governing board's report prepared pursuant to this subsection (4) shall specifically address the manner in which the institutions governed by the governing board shall serve students who graduate from Colorado high schools and are enrolling as first-time freshmen students and meet one or more of the following criteria:

(I) The student's family is low-income and the student is likely to incur significant student debt in attending an institution of higher education;

(II) The student's parents did not attend postsecondary education and may not have graduated from high school;

(III) The student is a member of an underrepresented population; or

(IV) The student has limited access to technologies to support learning.

**Source:** **L. 85:** Entire article R&RE, p. 752, § 1, effective July 1. **L. 87:** (1) amended, p. 839, § 1, effective June 16. **L. 89:** (1)(c) amended, p. 975, § 1, effective May 26; (2) amended, p. 1643, § 5, effective June 5. **L. 90:** (3) amended, p. 1138, § 1, effective July 1. **L. 93:** (1)(a), (2), and (3) amended, p. 1511, § 14, effective June 6; (1)(a)(I) amended, p. 2122, § 2, effective June 11. **L. 96:** (1)(a)(III) added, p. 790, § 2, effective May 23; (1)(a)(I) amended and (1.5) added, p. 1830, § 2, effective June 5. **L. 97:** (1.5) amended, p. 1644, § 2, effective June 5. **L. 2002:** (4), (5), and (6) added, p. 1279, § 4, effective July 1; (7) and (8) added, p. 1259, § 17, effective July 1. **L. 2003:** (4)(c.5) and (7)(b.5) added, p. 397, § 1, 2, effective March 5; IP(5) and (6)(c) amended and (5.5) and (9) added, p. 775, § 3, effective March 25; (7)(a), (7)(b), and (8)(b) amended, p. 1993, § 36, effective May 22. **L. 2004:** (8)(b) amended, p. 1200, § 59, effective August 4; (1)(a)(I) and (1)(d) amended, p. 718, § 7, effective July 1, 2005; (1.5)(b) and (2)(c) added by revision, pp. 723, 724, §§ 15, 18. **L. 2008:** (1)(a)(II) amended, p. 118, § 2, effective March 19; (1)(a)(I) amended, p. 274, § 1, effective March 31; (1)(a)(I) amended and (1)(a)(IV) added, p. 980, § 1, effective May 21. **L. 2010:** Entire section R&RE, (SB 10-003), ch. 391, p. 1839, § 4, effective June 9. **L. 2011:** (1)(b)(II) amended, (HB 11-1301), ch. 297, p. 1418, § 4, effective August 10; (2) amended, (HB 11-1074), ch. 61, p. 160, § 2, effective August 10.

**Editor's note:** (1) Subsections (7) and (8) were originally numbered as (4) and (5) in House Bill 02-1419, but were renumbered on revision for ease of location.

(2) Subsection (1)(b) provided for the repeal of subsection (1)(b), effective July 1, 1989. (See L. 87, p. 839.) Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective July 1, 1991. (See L. 89, p. 975.) Subsection (4)(d) provided for the repeal of subsection (4), effective July 1, 2003. (See L. 2002, p. 1279.) Subsection (7)(c) provided for the repeal of subsection (7), effective July 1,



2003. (See L. 2002, p. 1259.) Subsection (9)(b) provided for the repeal of subsection (9), effective July 1, 2004. (See L. 2003, p. 775.) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2005. (See L. 2004, p. 723.) Subsection (2)(c) provided for the repeal of subsection (2), effective July 1, 2005. (See L. 2004, p. 723.)

(3) Amendments to subsection (1)(a)(I) by House Bill 08-1320 and Senate Bill 08-232 were harmonized.

**Cross references:** For the legislative declaration contained in the 2002 act enacting subsections (4), (5), and (6), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration contained in the 2002 act enacting subsections (7) and (8), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative findings and declarations contained in the 2004 act amending subsections (1)(a)(I) and (1)(d) and adding by revision subsections (1.5)(b) and (2)(c), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act repealing and reenacting this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

### **23-1-105. Duties and powers of the commission with respect to appropriations.**

(1) The commission shall prescribe uniform financial reporting policies, including policies for counting and classifying full-time equivalent students, for the institutions and governing boards within the state-supported system of higher education.

(2) to (3.7) Repealed.

(4) The commission may seek, receive, and disburse federal, state, and private grants, gifts, and trusts for statewide or multiinstitutional purposes.

(5) The commission, after consultation with the governing boards of institutions, shall establish policies for the public system of higher education for determining student residency status for tuition classification purposes within statutory guidelines established in article 7 of this title.

(6) and (7) Repealed.

(8) The funding recommendations made by the commission for state-supported institutions of higher education and by the executive director for the divisions of the department of higher education shall be made to the governor and the general assembly as a part of the budget request for the department of higher education and shall be submitted in accordance with the budget procedures of part 3 of article 37 of title 24, C.R.S., and in conformance with section 24-75-201.1, C.R.S.

(9) to (11) Repealed.

**Source:** **L. 85:** Entire article R&RE, p. 753, § 1, effective July 1. **L. 87:** (7) amended, p. 842, § 1, effective June 1. **L. 90:** (6) amended and (8) added, p. 1143, § 1, effective June 7; (7) repealed, p. 1142, § 9, effective July 1. **L. 92:** (6) amended, p. 560, § 1, effective March 25. **L. 93:** IP(3) amended, p. 1519, § 24, effective June 6; (3.5) added, p. 2122, § 3, effective June 11. **L. 94:** (9) added, p. 42, § 1, effective March 11; (3.5)(a) amended, p. 1681, § 8, effective May 31. **L. 95:** (3.5)(a) and (3.5)(b) amended and (10) added, pp. 56, 48, §§ 5, 1, effective March 20. **L. 96:** (11) added, p. 88, § 1, effective March 20; (2) and (3.5)(a) amended, (3)(d) and (3.7) added, and (6) repealed, pp. 1831, 1835, §§ 4, 3, 11, effective June 5. **L. 97:** (3.5) and (9) to (11) repealed and (3.7)(a) amended, p. 1644, §§ 1, 3, effective June 5. **L. 2003:** (8) amended, p. 1994, § 37, effective May 22. **L. 2004:** (2)(b) and (3.1) added by revision, pp. 723, 724, §§ 15, 18. **L. 2008:** (8) amended, p. 1471, § 4, effective May 28. **L. 2011:** (3.7) repealed, (SB 11-052), ch. 232, p. 999, § 5, effective May 27.

**Editor's note:** (1) This section is similar to former § 23-1-105 as it existed prior to 1985.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2005. (See L. 2004, pp. 723, 724.) Subsection (3.1) provided for the repeal of subsections (3) and (3.1), effective July 1, 2005. (See L. 2004, pp. 723, 724.)

**Cross references:** For the legislative findings and declarations contained in the 2004 act adding by revision subsections (2)(b) and (3.1), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2011 act repealing subsection (3.7), see section 1 of chapter 232, Session Laws of Colorado 2011.

**23-1-105.5. Duties and powers of the commission with respect to student fees - report.** (1) The commission shall adopt policies concerning the collection and use of student fees by the governing boards of the state institutions of higher education, as defined in section 23-5-119.5. The policies may address, but need not be limited to, the purposes for student fees, categories of student fees, the distinctions between tuition revenue and student fee revenue, accounting for student fee revenue, student fee fund balances, the minimum level of student involvement in the processes for establishing, reviewing, changing the amount of, and discontinuing student fees, and student fees that apply to a student concurrently enrolled pursuant to article 35 of title 22, C.R.S. In preparing the policies, the commission shall seek input from the governing boards, the state institutions of higher education, and the student representative to the advisory committee created pursuant to section 23-1-103 and representatives of the student governments at the state institutions of higher education.

(2) On or before January 15, 2012, and on or before January 15 each year thereafter, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, concerning the governing boards' fee policies and the collection and use of student fees.

**Source: L. 2011:** Entire section added, (HB 11-1301), ch. 297, p. 1417, § 3, effective August 10.

**23-1-106. Duties and powers of the commission with respect to capital construction and long-range planning - legislative declaration - definitions.** (1) Except as permitted by subsections (9) and (10) of this section, it is declared to be the policy of the general assembly not to authorize or to acquire sites or initiate any program or activity requiring capital construction for state-supported institutions of higher education, which, for the purposes of this section, shall include the Auraria higher education center established in article 70 of this title, unless approved by the commission.

(2) The commission shall, after consultation with the appropriate governing boards of the state-supported institutions of higher education and the appropriate state administrative agencies, have authority to prescribe uniform policies, procedures, and standards of space utilization for the development and approval of capital construction programs by institutions.

(3) The commission shall review and approve facility master plans for all state institutions of higher education on land owned or controlled by the state or an institution and capital construction program plans for projects other than those projects described in subsection (9) or (10) of this section. Except for those projects described in subsection (9) or (10) of this section, no capital construction shall commence except in accordance with an approved facility master plan and program plan.

(4) The commission shall ensure conformity of facilities master planning with approved educational master plans and facility program plans with approved facilities master plans.

(5) (a) The commission shall approve plans for any capital construction project at any institution, including a community college, regardless of the source of funds; except that the commission need not approve plans for any capital construction project at a local district college or area vocational school or for any capital construction or acquisition project described in subsection (9) or (10) of this section.

(b) The commission may except from the requirements for program and physical planning any project that shall require less than two million dollars of state moneys.

(6) (a) The commission shall request annually from each governing board of each state institution of higher education a five-year projection of capital development projects to be constructed but not including those projects described in subsection (9) or (10) of this section. The projection shall include the estimated cost, the method of funding, a schedule for project completion, and the governing board-approved priority for each project. The commission shall determine whether a proposed project is consistent with the role and mission and master planning of the institution and conforms to standards recommended by the commission.



(b) The commission shall request annually from the governing board of each state institution of higher education a two-year projection of capital construction or acquisition projects to be undertaken pursuant to subsection (9) or (10) of this section and estimated to require total project expenditures exceeding two million dollars. The projection shall include the estimated cost, the method of funding, and a schedule for project completion for each project. An institution shall amend the projection prior to commencing a project that is not included in the institution's most recent projection.

(7) (a) The commission annually shall prepare a unified, five-year capital improvements report of projects to be constructed, but not including those projects constructed or acquired pursuant to subsection (9) or (10) of this section, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, and the general assembly, consistent with the executive budget timetable, together with a recommended priority of funding of capital construction projects for the system of public higher education. The commission shall annually transmit the recommended priority of funding of capital construction projects to the capital development committee no later than November 1 of each year.

(b) Except as provided in subsection (5) of this section, it is the policy of the general assembly to appropriate funds only for projects approved by the commission.

(c) (I) The commission annually shall prepare a unified, two-year capital improvements report for projects to be constructed or acquired pursuant to subsection (9) or (10) of this section and estimated to require total project expenditures exceeding two million dollars, coordinated with education plans. The commission shall transmit the report to the office of state planning and budgeting, the governor, and the general assembly, consistent with the executive budget timetable.

(II) (A) Commencing in the 2010 regular legislative session, and in each regular legislative session thereafter, the commission shall submit the two-year projections prepared by each state institution of higher education for the 2010-11 and 2011-12 fiscal years, and for each two-year period thereafter as applicable, to the office of state planning and budgeting and the capital development committee. Beginning in the 2010 regular legislative session and in each regular legislative session thereafter, the capital development committee shall conduct a hearing on the projections and either approve the projections or return the projections to the institution for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each projection.

(B) A state institution of higher education may submit to the staff of the capital development committee, the commission, and the office of state planning and budgeting an amendment to its approved two-year projection. The capital development committee shall conduct a hearing on the amendment within thirty days after submission during a regular legislative session of the general assembly or within forty-five days after submission during any period that the general assembly is not in regular legislative session. The capital development committee shall either approve the projections or return the projections to the institution for modification. The commission and the office of state planning and budgeting shall provide the capital development committee with comments concerning each amendment.

(8) Repealed.

(9) (a) Except as provided in paragraph (d) of this subsection (9), a capital construction or acquisition project for an auxiliary facility initiated by the governing board of a state-supported institution of higher education that is contained in the most recent unified, two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee.

(b) Except as provided in paragraph (d) of this subsection (9), a capital construction or acquisition project for an academic facility initiated by the governing board of a state-supported institution of higher education that is contained in the most recent unified,

two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, as the projection may be amended from time to time, and that is to be acquired or constructed solely from cash funds held by the institution and operated and maintained from such funds or from state moneys appropriated for such purpose, or both, shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee. Any capital construction project subject to this paragraph (b) shall comply with the high performance standard certification program established pursuant to section 24-30-1305, C.R.S.

(c) Each governing board shall ensure, consistent with its responsibilities as set forth in section 5 (2) of article VIII of the state constitution, that a capital construction or acquisition project initiated pursuant to this subsection (9) shall be in accordance with its institution's mission, be of a size and scope to provide for the defined program needs, and be designed in accordance with all applicable building codes and accessibility standards.

(d) (I) The provisions of this subsection (9) shall not apply to a project that is to be acquired or constructed in whole or in part using moneys subject to the higher education revenue bond intercept program established pursuant to section 23-5-139.

(II) Any plan for any such capital construction or acquisition project that is estimated to require total expenditures of two million dollars or less shall not be subject to review or approval by the commission.

(e) A capital construction or acquisition project approved and appropriated prior to January 1, 2010, may be contained in the most recent unified two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section. The projection may be amended from time to time and shall not be subject to additional review or approval by the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee.

(10) (a) (I) The commission shall review and approve any plan for a capital construction or acquisition project for an auxiliary facility that is estimated to require total expenditures exceeding two million dollars and that is to be acquired or constructed and operated and maintained solely from cash funds held by the institution that, in whole or in part, are subject to the higher education revenue bond intercept program established pursuant to section 23-5-139.

(II) The commission shall review and approve any plan for a capital construction or acquisition project for an academic facility that is estimated to require total expenditures exceeding two million dollars, that is to be acquired or constructed solely from cash funds held by the institution that, in whole or in part, are subject to the higher education revenue bond intercept program established pursuant to section 23-5-139, and that is operated and maintained from such cash funds or from state moneys appropriated for such purpose, or both. Any capital construction project subject to this subparagraph (II) shall comply with the high performance standard certification program established pursuant to section 24-30-1305, C.R.S.

(III) Any plan for any such capital construction or acquisition project that is estimated to require total expenditures of two million dollars or less shall not be subject to review or approval by the commission.

(b) Upon approval of a plan for a capital construction or acquisition project pursuant to paragraph (a) of this subsection (10), the commission shall submit the plan to the capital development committee. The capital development committee shall make a recommendation regarding the project to the joint budget committee. Following the receipt of the recommendation, the joint budget committee shall refer its recommendations regarding the project, with written comments, to the commission.

(c) A capital construction or acquisition project approved and appropriated prior to January 1, 2010, may be contained in the most recent unified two-year capital improvements project projection approved pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this section, and the projection may be amended from time to time.

(10.2) (a) (I) Notwithstanding any law to the contrary, all academic facilities acquired or constructed, or an auxiliary facility repurposed for use as an academic facility, solely from cash funds held by the institution and operated and maintained from such cash funds



or from state moneys appropriated for such purpose, or both, including, but not limited to, those facilities described in paragraph (b) of subsection (9) of this section and subparagraph (II) of paragraph (a) of subsection (10) of this section, that did not previously qualify for state controlled maintenance funding will qualify for state controlled maintenance funding, subject to funding approval by the capital development committee and the eligibility guidelines described in section 24-30-1303.9, C.R.S., as enacted by House Bill 12-1318, enacted in 2012.

(II) For purposes of this paragraph (a), the eligibility for state controlled maintenance funding commences on the date of the acceptance of the construction or repurposing of the facility or the closing date of any acquisition. The date of the acceptance of construction or repurposing shall be determined by the office of the state architect.

(b) (I) The general assembly hereby finds, determines, and declares that the classification of facilities as academic facilities or auxiliary facilities can be difficult, and such classifications often change as academic needs, student needs, and new construction and design practices emerge. Therefore, the office of the state architect, in collaboration with the department of higher education and the office of state planning and budgeting, shall develop guidelines in order to assist such classification. The guidelines shall be annually reviewed and approved by the capital development committee. The guidelines shall address the following two factors that have historically been considered when classifying academic facilities and auxiliary facilities:

- (A) The funding source for the facility; and
- (B) The nature and use of the facility.

(II) The guidelines established pursuant to this paragraph (b) shall use the definitions set forth in subsection (10.3) of this section.

(10.3) As used in this section, unless the context otherwise requires:

(a) “Academic facility” means any building or other physical facility, including any supporting utility infrastructure, that is central to the role and mission of each institution as set forth in this title. Examples include, but are not limited to, classrooms, libraries, and administrative buildings.

(b) “Auxiliary facility” means any building or other physical facility, including any supporting utility infrastructure, funded from an auxiliary source such as housing or parking revenue or any building or other physical facility that has been historically managed as an auxiliary facility and is accounted for in institutional financial statements as a self-supporting facility. Examples include, but are not limited to, housing facilities, dining facilities, recreational facilities, and student activities facilities.

(10.5) (a) For any project subject to subsection (9) or (10) of this section, if, after commencement of acquisition or construction, the governing board of the institution receives an additional gift, grant, or donation for the project, the governing board may amend the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been amended and verifying the receipt of the additional gift, grant, or donation.

(b) For any project subject to subsection (9) or (10) of this section, the governing board may enhance the project in an amount not to exceed fifteen percent of the original estimate of the cost of the project without the approval of the commission, the office of state planning and budgeting, the capital development committee, or the joint budget committee so long as the governing board notifies the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee in writing, explaining how the project has been enhanced and the source of the moneys for the enhancement.

(c) For any project subject to subsection (9) or (10) of this section, the governing board of the institution implementing the project is not required to submit for the project quarterly expenditure reports as described in section 24-30-204 (2), C.R.S. The governing board shall submit for the project annual expenditure reports as required in section 24-30-204 (1), C.R.S.

(11) (a) Each state institution of higher education shall submit to the commission on or before September 1 of each year a list and description of each project for which an expenditure was made during the immediately preceding fiscal year that:

(I) Was not subject to review by the commission pursuant to subsection (9) of this section;

(II) Was approved pursuant to subsection (10) of this section;

(III) Was estimated to require total expenditures of two million dollars or less; or

(IV) Was amended or enhanced after commencement of acquisition or construction pursuant to subsection (10.5) of this section.

(b) The commission shall submit a compilation of the projects to the capital development committee on or before December 1 of each year.

(12) Each institution shall submit to the commission a facility management plan or update required by section 24-30-1303.5 (3.5), C.R.S. The commission shall review the facility management plan or update and make recommendations regarding it to the department of personnel.

(13) The provisions of this section shall not apply to any local junior college district that is not a part of the state system and not eligible to receive any state funds for capital construction pursuant to section 23-71-202 (3).

**Source:** **L. 85:** Entire article R&RE, p. 754, § 1, effective July 1. **L. 92:** (9) added, p. 583, § 2, effective June 1. **L. 93:** (9) amended, p. 1825, § 8, effective June 6. **L. 94:** (5) amended, p. 1795, § 3, effective May 31. **L. 2001:** (5) and (9) amended and (10) and (11) added, p. 664, § 1, effective August 8; (7)(a) amended, p. 492, § 1, effective August 8. **L. 2003:** (12) added, p. 962, § 1, effective July 1. **L. 2005:** (5)(a), (9)(a), and (10) amended, p. 1016, § 9, effective June 2. **L. 2008:** (5)(b), (9)(a), (9)(c), and (10) amended, p. 260, § 1, effective March 31; (8) amended, p. 1471, § 5, effective May 28. **L. 2009:** (1), (3), (6), (7), (8), and (11) amended and (10.5) and (13) added, (SB 09-290), ch. 374, p. 2035, § 1, effective August 5; (9) and (10)(a) amended, (SB 09-290), ch. 374, p. 2038, § 2, effective January 1, 2010. **L. 2010:** (3), (5)(a), (6), (7)(a), (7)(c)(I), (9), (10), (10.5)(a), and (11)(a)(IV) amended and (8) repealed, (SB 10-003), ch. 391, p. 1854, 1853, §§ 35, 34, effective June 9. **L. 2011:** (9)(e) and (10)(c) added and (10.5) amended, (HB 11-1301), ch. 297, p. 1429, §§ 25, 26, 27, effective August 10. **L. 2012:** (9)(a), (9)(b), (10)(a)(I), and (10)(a)(II) amended and (10.2) and (10.3) added, (SB 12-040), ch. 118, p. 401, § 2, effective April 16; (1) amended, (HB 12-1081), ch. 210, p. 902, § 2, effective August 8.

**Editor's note:** This section is similar to former § 23-1-106 as it existed prior to 1985.

**Cross references:** For the legislative declaration in the 2010 act amending subsections (3), (5)(a), (6), (7)(a), (7)(c)(I), (9), (10), (10.5)(a), and (11)(a)(IV) and repealing subsection (8), see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-1-106.3. Duties and powers of the commission - capital construction projects - federal mineral lease revenues fund - higher education institutions lease-purchase cash fund.** (1) (a) As soon as possible after May 12, 2008, the commission, after consultation with the appropriate governing boards of state-supported institutions of higher education, shall submit to the office of state planning and budgeting and to the capital development committee of the general assembly, established pursuant to section 2-3-1302, C.R.S., a prioritized list of capital construction projects at the state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the higher education federal mineral lease revenues fund established pursuant to section 23-19-9-102 (1) and referred to in this section as the "revenues fund". As soon as possible after receipt of the list from the commission, the office of state planning and budgeting shall submit to the capital development committee a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund.

(b) (I) As soon as possible after receipt of the prioritized list from the office of state planning and budgeting, the capital development committee shall review the prioritized lists



submitted by the commission and the office of state planning and budgeting and shall submit to the joint budget committee of the general assembly a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund.

(II) As soon as possible after receipt of the prioritized list from the capital development committee, the joint budget committee shall review the prioritized list submitted by the capital development committee and shall sponsor a joint resolution specifying a prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund. The resolution shall contain a listing of the maximum amount of principal to be raised through lease-purchase agreements to be paid from the revenues fund, the minimum amount of principal to be contributed by the institution, and the total anticipated cost of the project.

(III) If approved by the general assembly, the joint resolution shall be presented to the governor in accordance with section 39 of article V of the state constitution.

(IV) The anticipated annual state-funded payments for the principal and interest components of amount payable under all lease-purchase agreements on the projects listed in the joint resolution adopted and approved pursuant to this paragraph (b) entered into during the fiscal year commencing July 1, 2008, shall not exceed an average of sixteen million two hundred thousand dollars per year for the first ten years of payments and sixteen million eight hundred thousand dollars per year during the second ten years of payments.

(V) To the extent that any projects on the prioritized list contained in the joint resolution introduced and approved pursuant to this subsection (1) are not the subject of lease-purchase agreements entered into pursuant to subsection (3) of this section and to the extent that the state treasurer determines that there is sufficient money in the revenues fund to enter into an additional lease-purchase agreement or agreements during the fiscal year commencing July 1, 2009, the remaining projects on the prioritized list in the joint resolution shall be the prioritized list for lease-purchase agreements entered into during the fiscal year commencing July 1, 2009.

(2) (a) On or before August 15, 2009, and on or before August 15 each year thereafter, the state treasurer shall notify the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee of the amount of money in the revenues fund and whether the treasurer determines that there are sufficient moneys in the revenues fund to enter into additional lease-purchase agreements to be funded from the revenues fund.

(b) After the notification required by paragraph (a) of this subsection (2) is received, and the treasurer has determined that there are sufficient moneys in the revenues fund to enter into additional lease-purchase agreements, the commission, the office of state planning and budgeting, the capital development committee, and the joint budget committee, pursuant to the procedures established in subsection (1) of this section, may promptly consider a new prioritized list of capital construction projects at state-supported institutions of higher education to be constructed using lease-purchase agreements funded through the revenues fund. A joint resolution introduced pursuant to this paragraph (b) shall also include a statement of the maximum average anticipated state-funded payments under all lease-purchase agreements to be authorized through the joint resolution.

(3) (a) (I) Notwithstanding the provisions of sections 24-82-102 (1) (b) and 24-82-801, C.R.S., the state of Colorado, acting by and through the state treasurer, is authorized to execute lease-purchase agreements each for no more than twenty years of annual payments on the projects listed in the joint resolution adopted and approved pursuant to paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section. The lease-purchase agreements authorized pursuant to this paragraph (a) may be for the total amount of the project cost as reflected in the joint resolution. A state-supported institution of higher education may either contribute the full amount of its share of the cost of the project at the commencement of the project or may have its share of the cost of the project included in the lease-purchase agreement. Based upon the total amount of money that one or more lease-purchase agreements is able to raise, the treasurer shall enter into lease-purchase agreements in the order of the prioritized list contained in the joint resolution; except that, if, after funding all previous projects on the list, the amount of

money is insufficient to fund the entire project that is next on the list, the treasurer may enter into a lease-purchase agreement on the next project or projects on the list that may be completely funded.

(II) The state treasurer shall ensure that each state-supported institution of higher education submits a certificate of completion no later than August 1, 2012, for each project funded in whole or in part by the lease-purchase agreement entered into by the state treasurer in 2008 pursuant to this section. After such certificates of completion are received by the state treasurer, the state treasurer and the state controller shall calculate the amount of unspent proceeds raised through the 2008 lease-purchase agreement. The state treasurer and the state controller shall also calculate the amount of the unspent institutional shares of the total project costs. The state treasurer and state controller shall provide these amounts to the capital development committee in writing no later than August 15, 2012. No later than thirty days after receiving such amounts, the capital development committee shall hold a public meeting during the interim between the second regular session of the sixty-eighth general assembly and the first regular session of the sixty-ninth general assembly to decide, by majority vote, what the unspent proceeds raised through the 2008 lease-purchase agreement and the unspent institutional shares of the total project costs should be used to fund. The capital development committee's decision shall be limited to funding capital construction projects at state-supported institutions of higher education or, so long as such projects are identified as eligible by bond counsel, controlled maintenance projects at state-supported institutions of higher education. The capital development committee shall communicate the decision to the state treasurer in writing, and the state treasurer shall ensure that the approved project or projects are funded from the unspent proceeds raised through the 2008 lease-purchase agreement and the unspent institutional shares of the total project costs as soon as possible.

(b) (I) The state of Colorado, acting by and through the state treasurer, at the state treasurer's sole discretion, may enter into one or more lease-purchase agreements authorized by paragraph (a) of this subsection (3) with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee, as lessor, including but not limited to the Colorado educational and cultural facilities authority created pursuant to section 23-15-104.

(II) (A) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) shall provide that all of the obligations of the state under the agreement shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder. Payments under any lease-purchase agreement shall be made from the revenues fund and any money in the higher education institutions lease-purchase cash fund established in subsection (4) of this section.

(B) Each agreement shall also provide that the obligations of the state shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. In the event the state of Colorado does not renew a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3), the sole security available to the lessor shall be the property that is the subject of the nonrenewed lease-purchase agreement.

(III) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state of Colorado, may deem appropriate, including all optional terms; except that each lease-purchase agreement shall specifically authorize the state of Colorado or the governing board of the applicable state-supported institution of higher education to receive fee title to all real and personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the agreement. Any title to such property received by the state on or prior to the expiration of the terms of the lease-purchase agreement shall be held for the benefit and use of such governing board.

(IV) Any lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the lease-purchase



agreement. The instruments may be issued, distributed, or sold only by the lessor or any person designated by the lessor and not by the state. The instruments shall not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(V) Interest paid under a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3), including interest represented by the instruments, shall be exempt from Colorado income tax.

(VI) The state of Colorado, acting through the state treasurer and the governing board of the institutions of higher education, is authorized to enter into ancillary agreements and instruments as are deemed necessary or appropriate in connection with a lease-purchase agreement, including but not limited to deeds, ground leases, sub-leases, easements, or other instruments relating to the real property on which the facilities are located or an agreement entered into pursuant to subsection (5) of this section.

(c) The provisions of section 24-30-202 (5) (b), C.R.S., shall not apply to a lease-purchase agreement authorized pursuant to paragraph (a) of this subsection (3) or any ancillary agreement or instrument entered into pursuant to paragraph (b) of this subsection (3). The state controller or his or her designee shall waive any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), C.R.S., that the state controller deems to be incompatible or inapplicable with respect to said lease-purchase agreements or any such ancillary agreement or instrument.

(4) (a) A local government or the governing board of a state-supported institution of higher education may pay to the state treasurer an amount to assist the state in making payments on any lease-purchase agreement entered into pursuant to paragraph (a) of subsection (3) of this section. State-supported institutions of higher education, including but not limited to the Auraria higher education center and its constituent institutions, are authorized to transfer moneys to the state treasurer pursuant to this subsection (4) for the projects for which the state treasurer executes a lease-purchase agreement pursuant to subsection (3) of this section without an appropriation from the general assembly. The state treasurer shall credit any moneys received pursuant to this subsection (4) to the higher education institutions lease-purchase cash fund, referred to in this subsection (4) as the "fund", which fund is hereby created in the state treasury. Except as provided in subparagraph (II) of paragraph (a) of subsection (3) of this section, moneys in the fund are continuously appropriated to the state treasurer to make payments on lease-purchase agreements executed pursuant to paragraph (a) of subsection (3) of this section. Any moneys in the fund not expended for the purpose of this section shall be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Except as provided in paragraph (b) of this subsection (4), any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(b) (I) Within thirty days of the state treasurer's receipt of the certificate of completion for the academic building on the Craig campus of Colorado Northwestern community college, the state treasurer shall transfer no more than two million one hundred thousand dollars of such institution's cash assistance payment to the Colorado community college system.

(II) Within thirty days of the state treasurer's receipt of the certificate of completion for the science building addition and renovation at the Auraria higher education center, the state treasurer shall transfer no more than one million dollars to the Auraria higher education center.

(5) (a) Prior to executing a lease-purchase agreement pursuant to subsection (3) of this section, in order to protect against future interest rate increases, the state of Colorado, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into

an interest rate exchange agreement pursuant to article 59.3 of title 11, C.R.S. A lease-purchase agreement entered into pursuant to subsection (3) of this section shall be a proposed public security for the purposes of article 59.3 of title 11, C.R.S. Any payments made by the state under an agreement entered into pursuant to this subsection (5) shall be made solely from moneys made available to the state treasurer from the execution of a lease-purchase agreement or from moneys appropriated from the revenues fund or the higher education institutions lease-purchase cash fund created pursuant to subsection (4) of this section.

(b) Any agreement entered into pursuant to this subsection (5) shall also provide that the obligations of the state shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(c) Any moneys received by the state under an agreement entered into pursuant to this subsection (5) shall be used to make payments on lease-purchase agreements entered into pursuant to subsection (3) of this section or to pay the costs of the project for which a lease-purchase agreement was executed.

**Source:** **L. 2008:** Entire section added, p. 712, § 1, effective May 12. **L. 2010:** (3)(c) amended, (SB 10-003), ch. 391, p. 1848, § 22, effective June 9; (3)(b)(I) amended, (SB 10-122), ch. 64, p. 226, § 2, effective August 11. **L. 2012:** (3)(a) and (4) amended, (HB 12-1357), ch. 222, p. 951, § 2, effective May 24.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (3)(c), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsections (3)(a) and (4), see section 1 of chapter 222, Session Laws of Colorado 2012.

### **23-1-106.5. Duties and powers of the commission with regard to advanced technology - fund created. (Repealed)**

**Source:** **L. 99:** Entire section added with relocations, p. 876, § 3, effective July 1. **L. 2000:** (8) added, p. 412, § 1, effective April 13; (9) added, p. 1540, § 1, effective June 1. **L. 2001:** (9)(c) amended, p. 1272, § 27, effective June 5. **L. 2003:** (9)(e) added, p. 457, § 12, effective March 5; (9)(b) and (9)(c) amended, p. 2100, § 1, effective May 22. **L. 2005:** (7)(a) repealed, p. 277, § 6, effective August 8. **L. 2006:** (9)(b) amended, p. 1254, § 2, effective May 26; IP(1), (2)(e), and (6) amended, p. 1733, § 14, effective June 6; (9)(b) and (9)(c) amended, p. 175, § 5, effective July 1. **L. 2007:** (9) repealed, p. 1604, § 5, effective May 31. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

**Editor's note:** (1) Prior to its repeal in 2008, this section was similar to former § 23-11-104 as it existed prior to 1999.

(2) Subsection (9) was relocated to § 25-16.5-105 in 2007. (See L. 2007, p. 1602.)

### **23-1-106.7. Duties and powers of the department with respect to technology transfers. (1) The department, in consultation with the office of information technology created in the office of the governor, shall:**

(a) In all its program efforts, endeavor to facilitate the transfer of newly created technologies from the laboratory to the private sector for the start-up of new businesses, to add product lines to established firms, or to introduce technologies into mature industries in order to strengthen the state's existing economic base; and

(b) Assess the technology transfer potential of all academic programs targeted for investment and development.

(2) (Deleted by amendment, L. 2008, p. 1472, § 6, effective May 28, 2008.)



**Source:** L. 99: Entire section added with relocations, p. 876, § 3, effective July 1. L. 2006: IP(1) amended, p. 1734, § 15, effective June 6. L. 2008: IP(1) and (2) amended, p. 1472, § 6, effective May 28.

**Editor's note:** This section is similar to former § 23-11-105 as it existed prior to 1999.

**23-1-107. Duties and powers of the commission with respect to program approval, review, reduction, and discontinuance.** (1) (a) The commission shall define what constitutes an academic or career and technical education program and shall establish criteria or guidelines that define programs and procedures for approval of new programs.

(b) An institution of higher education shall submit a proposal for a new program to the department. Within a reasonable time after receipt of a proposal for a new program, the department shall review and, consistent with the institutional role and mission and the statewide goals specified in section 23-1-108 and further articulated in the master plan adopted pursuant to section 23-1-108, make recommendations to the commission for appropriate action on a proposal for a new program.

(c) An institution of higher education shall not establish a new program without first notifying and receiving approval from the commission.

(d) The provisions of this subsection (1) shall not apply to an institution of higher education for which there is a performance contract in effect with the commission as an exemplary institution of higher education pursuant to section 23-41-104.6 or an institution of higher education for which there is a performance contract in effect with the department pursuant to section 23-5-129.

(2) (a) (Deleted by amendment, L. 2008, p. 1472, § 7, effective May 28, 2008.)

(a.5) Repealed.

(a.6) The commission shall develop and employ uniform standards for the comparative evaluation of duplicate programs offered at the graduate level by more than one institution. In all cases where there is duplication of graduate programs among multiple institutions, the commission shall make an evaluation of all such programs with a view to eliminating duplication. The evaluation of the programs shall include an analysis of the number of degrees granted in each institution's programs in the last five years, the number of duplicate degree programs within the Colorado public system of higher education, the role and mission statements for each institution, the interconnections of a program with other programs on a campus, the national recognition given to existing programs, the cost of continuing such programs, and other criteria as determined by the commission. In program discontinuance, the commission shall consider balance among institutions. It is the intent of the general assembly that there shall be a presumption in favor of the elimination of duplicate graduate programs where the need for duplication is not clearly justified by special excellence, geographical and other particular needs served, or the unique contribution of duplicate programs.

(a.7) Repealed.

(b) The governing board of a state-supported institution of higher education directed to discontinue an academic or vocational degree program area pursuant to this subsection (2) shall have not more than four years to discontinue graduate and baccalaureate programs and not more than two years to discontinue associate programs following the commission's directive to phase out said program area.

(c) If the commission directs the governing board of an institution to discontinue an academic or vocational degree program area, and the governing board refuses to do so, the commission may require such governing board to remit to the general fund any moneys appropriated for such program area.

(3) Each governing board of the state-supported institutions of higher education shall submit to the department a plan describing the procedures and schedule for periodic program reviews and evaluation of each academic program at each institution consistent with the statewide goals specified in section 23-1-108 and further articulated in the master plan adopted pursuant to section 23-1-108 and the role and mission of each institution. The information to be provided to the department shall include, but shall not be limited to, the

procedures for using internal and external evaluators, the sequence of such reviews, and the anticipated use of the evaluations.

(4) Prior to the discontinuance of a program, the governing boards of state institutions of higher education are directed, subject to commission approval, to develop appropriate early retirement, professional retraining, and other programs to assist faculty members who may be displaced as a result of discontinued programs.

(5) The department shall ensure that each institution has an orderly process for the phaseout of programs.

(6) Repealed.

**Source:** **L. 85:** Entire article R&RE, p. 755, § 1, effective July 1. **L. 88:** (2)(a.5) to (2)(a.7) added, p. 838, § 2, effective April 21. **L. 94:** (2)(a.5) repealed, p. 1795, § 4, effective May 31. **L. 96:** (1), (2)(a), and (3) amended, p. 1833, § 6, effective June 5; (2)(a.7) repealed, p. 1235, § 76, effective August 7. **L. 2007:** (6) added, p. 338, § 3, effective April 2. **L. 2008:** (1), (2)(a), (3), and (5) amended, p. 1472, § 7, effective May 28. **L. 2009:** (6) repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21. **L. 2011:** (1)(b) and (3) amended, (SB 11-052), ch. 232, p. 999, § 7, effective May 27.

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsection (2)(a.7), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in the 2011 act amending subsections (1)(b) and (3), see section 1 of chapter 232, Session Laws of Colorado 2011.

**23-1-108. Duties and powers of the commission with regard to systemwide planning.** (1) The commission, after consultation with the governing boards of institutions and as a part of the master planning process, shall have the authority to:

(a) Establish a policy-based and continuing systemwide planning, programming, and coordination process to effect the best use of available resources;

(b) Establish such academic and vocational education planning as may be necessary to accomplish and sustain systemwide goals of high quality, access, diversity, efficiency, and accountability. Such planning shall include identification by each governing board of programs of excellence at institutions under their control and plans for enhancement and improvement for those programs.

(c) Determine the role and mission of each state-supported institution of higher education within statutory guidelines;

(d) Establish enrollment policies, consistent with roles and missions, at state-supported institutions of higher education as described in statute and further defined in paragraph (c) of this subsection (1);

(e) Establish state policies that differentiate admission and program standards and that are consistent with institutional roles and missions as described in statute and further defined in paragraph (c) of this subsection (1);

(f) Adopt statewide affirmative action policies for the commission, governing boards, and state-supported institutions of higher education. Responsibility for implementation of such policies shall be reserved to the governing boards.

(g) Report not less than every four years to the education committees of the general assembly on the need for, advisability of, or progress toward reorganizing the structure of public higher education in Colorado;

(h) Establish systemwide policies concerning administrative costs.

(1.5) (a) On or before September 1, 2012, the commission shall develop and submit to the governor and the general assembly a new master plan for Colorado postsecondary education. The commission shall collaborate with the governing boards and chief executive officers of the state institutions of higher education in developing the master plan. In addition, the commission shall take into account the final report of the higher education strategic planning steering committee appointed by the governor. In drafting the master plan, addressing the issues specified in paragraph (b) of this subsection (1.5), and establishing the goals as described in paragraph (c) of this subsection (1.5) for the state system



of higher education, the commission shall also take into consideration the data collected pursuant to subsection (1.7) of this section.

(b) At a minimum, the commission shall address the following issues in developing the master plan:

(I) The needs of the state with regard to the system of higher education and the top priorities for the state system of higher education in meeting those needs;

(II) Alignment of the state system of higher education with the system of elementary and secondary education and increasing the rate at which students who graduate from Colorado high schools enroll in and complete postsecondary and career and technical education;

(III) Accessibility and affordability of the state system of higher education, including consideration of methods to reduce the student debt load and increase need-based financial aid funding;

(IV) Funding for the state system of higher education and strategies for stabilizing and sustaining an adequate funding level;

(V) The role and mission of the state institutions of higher education and the governance structure of the state system of higher education;

(VI) The role of two-year and four-year junior colleges and area vocational schools in helping to address the workforce and economic development needs of the state within the system of higher education; and

(VII) The importance of private and proprietary institutions with regard to higher education in the state, although consideration of said institutions in the plan in no way implies control or state authority over their operations.

(c) The commission shall design the master plan to achieve, at a minimum, the following goals:

(I) Increasing the overall number of baccalaureate degrees, associate degrees, and career and technical education certificates issued by the public institutions of higher education in the state, while maintaining accessibility to the institutions, to provide support for economic development and a well-educated workforce for the business community in the state;

(II) Implementing systemic approaches, including coordinated and proven transitional programs, that strengthen the continuity of public education from elementary and secondary through postsecondary education for traditional and nontraditional students;

(III) Ensuring the long term fiscal stability and affordability of the state system of higher education and ensuring the efficient allocation of available state resources to support institutions of higher education while protecting the unique mission of each institution. The allocation shall take into consideration, but need not be limited to, tuition capacity, tuition rates relative to competitive institutions, the state resources available to institutions, funding for high-cost programs, the student and family incomes of students enrolled at institutions, enrollment levels, geographic access to educational opportunities throughout the state, and other issues deemed relevant by the commission.

(IV) Reducing the educational attainment gap between majority and underrepresented populations throughout the state;

(V) Reducing the geographic disparities in access to and opportunity to complete a broad array of quality higher education and career and technical education programs;

(VI) Addressing opportunities for students with disabilities, including intellectual disabilities, to participate in postsecondary education;

(VII) Implementing strategies that strengthen the link between higher education and economic development and innovation in the state; and

(VIII) Improving and sustaining excellence in career and technical education and undergraduate and graduate degree programs.

(d) (I) The commission shall ensure that the master plan prepared pursuant to this subsection (1.5) specifically addresses providing coordinated and proven programs that support and help ensure the success of students who graduate from Colorado high schools and are enrolling as first-time freshmen students and meet one or more of the following criteria:

(A) The student's family is low-income and the student is likely to incur significant student debt in attending an institution of higher education;

(B) The student's parents did not attend postsecondary education and may not have graduated from high school;

(C) The student is a member of an underrepresented population; or

(D) The student has limited access to technologies to support learning.

(II) Programs that may be addressed in the master plan include but need not be limited to:

(A) Providing student support services including counseling or tutoring;

(B) Implementing measures to reduce student debt by making effective use of financial assistance and assisting in fee payments and textbook costs; and

(C) Providing assistance in obtaining access to technology.

(e) Prior to submitting the master plan to the governor and the general assembly, the commission shall distribute a draft of the plan to the governing boards for comment. Each governing board shall submit to the commission its comments and any suggested revisions within thirty days after receiving the draft plan. The commission shall discuss and consider any revisions suggested by the governing boards to the draft master plan.

(f) (I) The commission shall ensure that the master plan is implemented through the performance contracts authorized pursuant to sections 23-5-129 and 23-41-104.6 by negotiating with the governing boards individualized goals and expectations for the public institutions of higher education, which goals and expectations support achievement of the statewide goals identified in paragraph (c) of this subsection (1.5) and in the master plan. The commission and the governing boards shall ensure that the institutions' renegotiated performance contracts are finalized no later than December 1, 2012.

(II) In fulfilling the requirements of paragraph (c) of subsection (1) of this section, the commission shall refer to each institution's role and mission and service area, as necessary, to interpret jointly with the institution's governing board the implications of the role and mission and service area on the academic, financial, and student services elements of each institution's performance contract.

(1.7) The commission, working with the department, the governing boards, and the institutions of higher education, shall collect data, including but not limited to research conducted by national policy organizations and agencies or institutions of higher education in other states, as necessary to support development and implementation of the master plan pursuant to subsection (1.5) of this section and to use in negotiating the performance contracts pursuant to sections 23-5-129 and 23-41-104.6. The commission shall take into consideration the costs to the governing boards of collecting and reporting any data the commission may request from the governing boards or the institutions of higher education pursuant to this subsection (1.7).

(1.9) (a) (I) On or before December 1, 2013, the commission shall create a performance-based funding plan to appropriate to each governing board, including the governing boards for the junior colleges and area vocational schools, a portion of the performance funding amount for the applicable state fiscal year based on the success demonstrated by the institutions under each governing board's control in meeting the goals and expectations specified in the institutions' respective performance contracts.

(II) The commission's performance-based funding plan shall specifically address the manner in which the appropriation of performance-based funding will affect the college opportunity fund stipends authorized in section 23-18-202 and the fee-for-service contracts authorized in sections 23-1-109.7 and 23-5-130. In fulfilling the requirements of subparagraph (I) of this paragraph (a), the commission shall analyze the effect of modifying the college opportunity fund stipend amounts for purposes of improving student retention, facilitating the success of transfers between institutions and between degree programs, and providing incentives for the timely completion of academic degrees. The modifications may include, but need not be limited to, differentiating stipend amounts based on each student's status as a freshman, sophomore, junior, or senior. In addition, the commission shall analyze the effect of limiting the amount of funding for credit hours earned in excess of one hundred forty credits for a baccalaureate degree, or seventy hours for an associate degree.



(III) The commission shall ensure that the performance-based funding plan distributes the performance funding amount on the basis of an institution's performance in meeting the negotiated goals and expectations specified in its performance contract. The distribution of the performance funding amount shall not take into account additional revenues that may be available to the institution, including but not limited to local property tax revenues received by the junior colleges and area vocational schools.

(IV) The commission shall recommend to the education committees of the house of representatives and the senate, or any successor committees, the statutory changes necessary to implement the performance-based funding plan specified in the master plan.

(b) After the 2015-16 state fiscal year, in each state fiscal year in which the general assembly appropriates the restored level of general fund appropriations for the state system of higher education, the commission, based on the performance-based funding plan adopted in the master plan, shall recommend to the joint budget committee the portion of the performance funding amount to be appropriated to each governing board, including the governing boards for the junior colleges and the area vocational schools, based on the demonstrated performance of the institutions that are under the governing board's control in meeting the institutions' goals and expectations specified in the institutions' respective performance contracts.

(c) For purposes of this subsection (1.9):

(I) "Performance funding amount" means twenty-five percent of the amount by which the general fund appropriation for the state system of higher education, excluding any amount appropriated for student financial aid, exceeds six hundred fifty million dollars.

(II) "Restored level of general fund appropriations" means an amount of general fund appropriations for the state system of higher education, excluding any amount appropriated for student financial aid, that equals or exceeds seven hundred six million dollars.

(III) "Student financial aid" means the state program of financial assistance established by the commission pursuant to section 23-3.3-102.

(2) The commission shall develop criteria for determining if an institution should be consolidated or closed and, after consultation with the appropriate governing board, shall make recommendations to the general assembly for closure or consolidation of campuses which meet such criteria.

(3) The commission shall develop, after consultation with the governing boards of institutions, cooperative programs among state-supported institutions of higher education.

(4) The commission shall convene periodically the chief executive officers of the campuses for the purpose of evaluating and discussing statewide policy issues.

(5) The commission shall establish programs to develop and improve governing boards concerning statewide educational policy issues.

(6) The commission shall report annually to the governor and the general assembly on institutional and board performance and responsiveness to statewide objectives set by the commission in its master plan.

(7) (a) The commission shall establish, after consultation with the governing boards of institutions, and enforce statewide degree transfer agreements between two-year and four-year state institutions of higher education and among four-year state institutions of higher education. Governing boards and state institutions of higher education shall implement the statewide degree transfer agreements and the commission policies relating to the statewide degree transfer agreements. The statewide degree transfer agreements shall include provisions under which state institutions of higher education shall accept all credit hours of acceptable course work for automatic transfer from an associate of arts or associate of science degree program in another state institution of higher education in Colorado. The commission shall have final authority in resolving transfer disputes.

(b) (I) A student who completes an associate of arts or associate of science degree that is the subject of a statewide degree transfer agreement and who transfers from the state institution of higher education that awarded the degree to a four-year state institution of higher education shall, if admitted, be enrolled with junior status. Successful completion of an associate of arts or associate of science degree does not guarantee the degree holder admission to a four-year state institution of higher education.

(II) A state institution of higher education that admits as a junior a student who holds an associate of arts degree or associate of science degree that is the subject of a statewide degree transfer agreement may not require the student to complete any additional credit hours of lower-division general education courses; except that the institution may require the student to complete additional lower-division general education courses if necessary for preparation in the degree program in which the student enrolls so long as the additional courses are consistent with published degree program requirements for native students and do not extend the time to degree completion beyond that required for native students in the same degree program.

(c) (I) Beginning July 1, 2010, the commission, in collaboration with the governing boards and the council convened pursuant to section 23-1-108.5 (3) (a), shall negotiate statewide degree transfer agreements and shall ensure that there are at least four statewide degree transfer agreements in place no later than July 1, 2012, and that, by no later than July 1, 2016, there are a total of at least fourteen statewide degree transfer agreements.

(II) The governing boards shall recommend to the commission the degree programs that would be most appropriate for statewide degree transfer agreements based on student demand and the workforce needs of the state.

(d) The existence of statewide degree transfer agreements does not preclude or restrict a state institution of higher education from awarding nontransfer associate of arts or associate of science degrees, applied associate degrees, or general liberal arts associate of arts or associate of science degrees.

(e) Nothing in this subsection (7) shall be construed to:

(I) Prevent or otherwise interfere with the ability of a state institution of higher education to fulfill its statutory role and mission;

(II) Prohibit one or more state institutions of higher education from entering into memoranda of understanding for the transfer of degrees among the agreeing institutions;

(III) Impair any memoranda of understanding between or among institutions of higher education in effect prior to August 11, 2010; or

(IV) Require the transfer of course credits earned during or applicable to a student's junior or senior year.

(f) On or before October 1, 1993, the commission shall establish and enforce student transfer agreements between degree programs offered on the same campus or within the same institutional system. Governing boards and state institutions of higher education shall implement the agreements and commission policies relating to the agreements. In accordance with the provisions of section 23-5-122, the agreements shall provide that:

(I) If, not more than ten years prior to transferring into an undergraduate degree program, a student earns credit hours that are required for graduation from the undergraduate degree program, the credit hours shall apply to the completion of the student's graduation requirements from the undergraduate degree program following the transfer;

(II) A student who transfers into an undergraduate degree program shall not be required to complete a greater number of credit hours in those courses that are required for graduation from the undergraduate degree program than are required of students who began in the undergraduate degree program, nor shall there be any minimum number of credit hours required post-transfer other than the normal degree requirements for nontransferring students; and

(III) The grade point average that is required for a student to apply for and be fully considered for transfer into an undergraduate degree program shall be no higher than that which is required for graduation from the undergraduate degree program.

(g) As used in this subsection (7), unless the context otherwise requires:

(I) "Native student" means a student who begins and completes an undergraduate degree program at a single state institution of higher education.

(II) "State institution of higher education" means a public postsecondary institution that is governed by:

(A) The board of governors of the Colorado state university system;

(B) The board of regents of the university of Colorado;

(C) The board of trustees of the Colorado school of mines;

(D) The board of trustees of the university of northern Colorado;



- (E) The board of trustees of Adams state university;
- (F) The board of trustees of Western state Colorado university;
- (G) The board of trustees of Colorado Mesa university;
- (H) The board of trustees for Fort Lewis college;
- (I) The board of trustees for Metropolitan state university of Denver;
- (J) The state board for community colleges and occupational education; or
- (K) The board of trustees of a junior college district organized pursuant to article 71 of this title.

(III) "Statewide degree transfer agreement" means an agreement among all of the state institutions of higher education for the transfer of an associate of arts or an associate of science degree. A statewide degree transfer agreement applies to common degree programs and specifies the common terms, conditions, and expectations for students enrolled in statewide degree transfer programs.

(8) The commission shall prescribe uniform academic reporting policies and procedures to which the governing boards and their institutions shall adhere.

(9) The state-supported institutions of higher education shall provide the commission with such data as the commission deems necessary upon its formal request, including but not limited to any data requested pursuant to subsection (1.7) of this section. Data for individual students or personnel shall not be divulged or made known in any way by the director of the commission or by any commission employee, except in accordance with judicial order or as otherwise provided by law. Any person who violates this subsection (9) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Such person shall, in addition thereto, be subject to removal or dismissal from public service on grounds of malfeasance in office.

(10) The commission may enter, on behalf of the state of Colorado, into agreements with another state or with the western interstate commission for higher education on behalf of another state for the granting of full or partial waivers of the nonresident tuition to residents of such other states who are postgraduate or professional students at or are eligible for admission as postgraduate students to any of the state-supported institutions of higher education in Colorado if the agreement provides that, under substantially the same circumstances, such other state will grant reciprocal waivers to residents of Colorado who are postgraduate or professional students of universities or colleges in such other states. The commission, in consultation with the affected Colorado institutions, shall establish regulations governing the administration of agreements and the granting of waivers. In 1996 and in each subsequent even-numbered year, the commission shall report to the governor and the general assembly on these programs.

(11) Repealed.

(12) (a) The commission shall establish fee policies based on institutional role and mission, and the governing boards shall set fees consistent with such policies.

(b) For fiscal years beginning on or after July 1, 2016, the commission shall establish tuition policies based on institutional role and mission, and the governing boards shall set tuition consistent with said policies.

(13) (a) It is the intent of the general assembly that academic degree programs at state-supported institutions of higher education be designed and implemented to assure and emphasize that undergraduate students have the maximum range of opportunities and assistance to complete their course of study and obtain their degree in a reasonable amount of time. The general assembly therefore directs the commission, within existing resources, to implement and revise appropriate policies, including financial incentives, to assure that students at state-supported institutions of higher education complete their academic degree programs in the most efficient, effective, and productive manner. The policy implementation and review shall include:

(I) Academic advising and counseling at such institutions and consideration of methods for the improvement of early and continuous availability of such academic advising and counseling in order to assist students with the completion of degree programs;

(II) The frequency and availability of courses essential to completion of degree programs at such institutions and evaluation of what changes may be necessary to assure that the course scheduling for degree programs by such institutions maximizes the oppor-

tunities for students to complete their course of study efficiently, effectively, and productively;

(III) Measures for minimizing and eliminating the restrictions against automatic transfer of credit hours of acceptable course work between such institutions and whether the provisions of transfer agreements between two-year and four-year institutions and among four-year institutions entered into pursuant to subsection (7) of this section are directed at easing such transfer restrictions;

(IV) Methods for minimizing the loss of credit hours when a student changes degree programs at such institution and assurance that such credit hours are transferred or substituted for appropriate course work in the other degree program;

(V) The review of possible solutions for access of nontraditional and part-time students to complete programs within the student's time frame goals;

(VI) What effect, if any, the reduction of degree programs would have on the increased availability of classes within existing degree programs;

(VII) What effect increases in educational costs may have on the average length of time for a student to complete a degree program; and

(VIII) The implementation of core curricula as a measure for assisting students to graduate.

(b) Repealed.

**Source:** **L. 85:** Entire article R&RE, p. 756, § 1, effective July 1. **L. 87:** (1)(h) amended, p. 844, § 1, effective April 22. **L. 90:** (1)(b) amended, p. 1141, § 5, effective July 1. **L. 92:** (13) added, p. 579, § 1, effective April 29. **L. 93:** (7) amended, p. 2125, § 7, effective June 11. **L. 94:** (11) repealed, p. 1795, § 5, effective May 31; (12) amended, p. 1994, § 2, effective June 2. **L. 95:** (10) amended, p. 39, § 1, effective January 1, 1996. **L. 96:** IP(1) amended, p. 1834, § 7, effective June 5; (13)(b) repealed, p. 1236, § 77, effective August 7. **L. 2002:** (9) amended, p. 1529, § 237, effective October 1. **L. 2010:** (1.5) added and (12) amended, (SB 10-003), ch. 391, pp. 1834, 1841, §§ 2, 5, effective June 9; (7) amended, (HB 10-1208), ch. 191, p. 819, § 1, effective August 11. **L. 2011:** IP(1), (1.5), and (9) amended and (1.7) and (1.9) added, (SB 11-052), ch. 232, p. 993, § 2, effective May 27; (7)(g)(II)(G) amended, (SB 11-265), ch. 292, p. 1364, § 13, effective August 10; (12)(a) amended, (HB 11-1301), ch. 297, p. 1418, § 7, effective August 10. **L. 2012:** (7)(g)(II)(E) amended, (HB 12-1080), ch. 189, p. 756, § 8, effective May 19; (7)(g)(II)(I) amended, (SB 12-148), ch. 125, p. 425, § 7, effective July 1; (7)(g)(II)(F) amended, (HB 12-1331), ch. 254, p. 1268, § 8, effective August 1; (1.5)(f) and (1.9)(a)(II) amended, (HB 12-1155), ch. 255, p. 1279, § 3, effective August 8.

**Editor's note:** This section is similar to former § 23-1-108 as it existed prior to 1985.

**Cross references:** (1) For provisions concerning public records applicable to data for students and personnel of institutions of higher education, see part 2 of article 72 of title 24.

(2) For the legislative declaration contained in the 1996 act repealing subsection (13)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending subsection (9), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act adding subsection (1.5) and amending subsection (12), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsections (1.5) and (9) and adding subsections (1.7) and (1.9), see section 1 of chapter 232, Session Laws of Colorado 2011. For the legislative declaration in the 2011 act amending subsection (7)(g)(II)(G), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (7)(g)(II)(I), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-1-108.5. Duties and powers of the commission with regard to common course numbering system - repeal.** (1) The general assembly hereby finds that, for many students, the ability to transfer among all state-supported institutions of higher education is critical to their success in achieving a degree. The general assembly further finds that it is necessary for the state to have sound transfer policies that provide the broadest and simplest mechanisms feasible, while protecting the academic quality of the institutions of higher



education and their undergraduate degree programs. The general assembly finds, therefore, that it is in the best interests of the state for the commission to oversee the adoption of a statewide articulation matrix system of course numbering for general education courses that includes all state-supported institutions of higher education and that will ensure that the quality of and requirements that pertain to general education courses are comparable and transferable systemwide.

(2) As used in this section, unless the context otherwise requires:

(a) "Council" means the council convened pursuant to paragraph (a) of subsection (3) of this section.

(b) "Course numbering system" means the statewide articulation matrix system of common course numbering for general education courses adopted by the commission pursuant to paragraph (c) of subsection (3) of this section.

(c) "General education courses" means the group of courses offered by an institution of higher education that every student enrolled in the institution must successfully complete to attain an associate's or bachelor's degree.

(d) "Higher education institution" means a state-supported institution of higher education.

(3) (a) On or before July 1, 2001, the commission shall convene a council consisting of representatives from each of the higher education governing boards and each of the four-year higher education institutions, a representative sample of the two-year higher education institutions, and a representative of the commission. The commission shall consult with the governing boards when convening representatives from the higher education institutions. By July 1, 2011, the council shall create a process through which it shall seek input from and consult with various higher education student organizations for each articulation agreement and for the review of general education courses and the course numbering system as required in paragraph (c) of this subsection (3).

(b) The council shall recommend to the commission a statewide articulation matrix system of common course numbering to which the general education courses for each higher education institution may be mapped.

(c) (I) On or before October 1, 2002, the council shall recommend to the commission a list of general education courses to be included in the course numbering system. In identifying said general education courses, the council shall review the course descriptions, and may request summaries of course syllabi for review, focusing first on lower division general education courses. The commission shall review the council's recommendations and adopt a statewide articulation matrix system of common course numbering for general education courses, including criteria for such courses, on or before January 1, 2003.

(II) The council shall annually review the list of general education courses and the course numbering system, including the criteria, adopted by the commission and recommend such changes as may be necessary to maintain the accuracy and integrity of the course numbering system. The council's annual review shall include consideration of the course descriptions, and the council may request summaries of course syllabi for further review.

(d) Repealed.

(e) This subsection (3) is repealed, effective July 1, 2016. Prior to such repeal, the council of higher education representatives shall be reviewed as provided for in section 2-3-1203, C.R.S.

(4) (a) Following adoption of the course numbering system, each higher education institution shall review its course offerings and identify those general education courses offered by the institution that correspond with the courses included in the course numbering system. The higher education institution shall submit its list of identified courses, including course descriptions and, upon request of the commission, summaries of course syllabi, for review and approval by the commission on or before March 1, 2003.

(b) Beginning with the fall semester of 2003, each higher education institution shall publish, and update as necessary, a list of course offerings that identifies those general education courses offered by the institution that correspond with the courses included in the course numbering system.

(5) All credits earned by a student in any general education course identified as corresponding with a course included in the course numbering system shall be automati-

cally transferable among all higher education institutions upon transfer and enrollment of the student. All higher education institutions in Colorado shall participate in the course numbering system. The commission shall adopt such policies and guidelines as may be necessary for the implementation of this section. Each governing board shall modify its existing policies as may be necessary to accept the transfer of these credits.

(6) (a) The council shall devise and recommend to the commission procedures for exchanging information to document students' success in transferring among higher education institutions. The commission shall adopt and implement such procedures.

(b) The commission, in consultation with the governing boards and the higher education institutions, shall design and implement a statewide database to implement the provisions of this section.

(7) The commission may accept any public or private gifts, grants, or donations given for the purpose of implementing this section. Any such gifts, grants, or donations shall be credited to the course numbering fund, which fund is hereby created in the state treasury. Moneys credited to the fund are hereby continuously appropriated to the commission for use in offsetting the costs incurred by the commission in implementing this section and for allocation to the governing boards to offset the costs incurred by the governing boards in implementing this section. All interest derived from the deposit and investment of moneys in the course numbering fund shall be credited to said fund. Any amount remaining in the course numbering fund at the end of any fiscal year shall remain in said fund and shall not be credited or transferred to the general fund or to any other fund.

**Source:** **L. 2001:** Entire section added, p. 1028, § 1, effective June 5. **L. 2004:** (3)(d) repealed, p. 583, § 2, effective August 4. **L. 2008:** (4)(a) amended, p. 1473, § 8, effective May 28; (3)(e) amended, p. 1901, § 85, effective August 5. **L. 2011:** (3)(a) and (3)(e) amended, (SB 11-100), ch. 87, p. 251, § 3, effective March 31.

**23-1-109. Duties and powers of the commission with regard to off-campus instruction.** (1) The general assembly declares its intent that the state-supported institutions of higher education may engage in instruction off the geographic boundaries of their campuses.

(2) The commission shall define, after consultation with the governing boards of institutions, the geographic and programmatic service areas for each state-supported institution of higher education. No such institution shall provide instruction off-campus in programs or in geographic areas or at sites not approved by the commission, unless otherwise provided by law.

(3) The general assembly declares its intent that all instruction at two-year institutions, including the first two years of instruction at Adams state university and Colorado Mesa university, shall be funded throughout the institutions' commission-approved service area on the same basis as on-campus instruction.

(4) The department shall administer any centralized, statewide extension and continuing education program of instruction that may be offered by any state-supported baccalaureate and graduate institution. All instruction offered outside the geographic boundaries of the campus, including instruction delivered by television or other technological means, shall be a part of this program unless exempted by policy and action of the commission.

(5) The commission shall set policies, after consultation with the governing boards of institutions, which define which courses and programs taught outside the geographic boundaries of the campus may be eligible for general fund support. The commission may include funding for those courses and programs in its systemwide funding recommendations to the general assembly.

**Source:** **L. 85:** Entire article R&RE, p. 757, § 1, effective July 1. **L. 88:** (3) amended, p. 857, § 4, effective July 1. **L. 2008:** (4) amended, p. 1473, § 9, effective May 28. **L. 2011:** (3) amended, (SB 11-265), ch. 292, p. 1365, § 14, effective August 10. **L. 2012:** (3) amended, (HB 12-1080), ch. 189, p. 757, § 9, effective May 19.



**Editor's note:** This section is similar to former § 23-1-109.5 as it existed prior to 1985.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (3), see section 1 of chapter 292, Session Laws of Colorado 2011.

#### ANNOTATION

**Fact that this section may have required a community college to provide educational opportunities to its entire service area did not authorize the college to support an additional**

**location with disbursements of federal funds for which that location was not eligible under federal law.** Morgan Cmty. Coll. v. Riley, 968 F. Supp. 1411 (D. Colo. 1997).

**23-1-109.3. Duties and powers of the commission with regard to student data - memorandum of understanding.** Notwithstanding the provisions of section 22-2-111 (3) (a), C.R.S., the commission shall enter into a memorandum of understanding on or before September 1, 2006, with the state board of education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the department, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

**Source: L. 2006:** Entire section added, p. 716, § 3, effective July 1. **L. 2008:** Entire section amended, p. 1473, § 10, effective May 28.

**23-1-109.5. Duties and powers of the commission with regard to fiscal accountability. (Repealed)**

**Source: L. 90:** Entire section added, p. 1140, § 3, effective July 1. **L. 94:** Entire section repealed, p. 1795, § 6, effective May 31.

**23-1-109.7. Duties and powers of the commission with regard to the provision of educational services.** (1) Beginning July 1, 2005, the commission shall be responsible for ensuring the provision of specific postsecondary educational services in the state. These educational services shall include but need not be limited to:

(a) Educational services in rural areas or communities in which the cost of delivering such services is not sustained by the amount received in student tuition;

(b) to (d) Repealed.

(e) Educational services required of the commission to meet its obligations under reciprocal agreements pursuant to section 23-1-112;

(f) Graduate school services;

(g) Educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining; and

(h) Specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering and programs that address identified state or national priorities.

(2) The department of higher education on behalf of the commission shall annually enter into fee-for-service contracts with one or more governing boards of institutions of higher education to provide the higher education services specified in subsection (1) of this section. The department of higher education may contract with a governing board of an institution of higher education only to the extent that the contract remains consistent with any contract entered into pursuant to section 23-5-129 with the governing board.

(3) The commission shall make annual funding recommendations to the general assembly and the governor regarding the funding necessary for the department of higher education to contract on the commission's behalf for the provision of higher education

services in the state, including but not limited to the services specified in subsection (1) of this section. The general assembly shall annually appropriate to the commission an amount of general fund moneys to carry out the purposes of this section.

**Source:** L. 2004: Entire section added, p. 717, § 4, effective July 1. L. 2005: (1)(b), (1)(c), (1)(d), and (1)(h) amended, p. 1014, § 6, effective June 2.

**Editor's note:** Subsections (1)(b)(II), (1)(c)(II), and (1)(d)(II) provided for the repeal of subsections (1)(b), (1)(c), and (1)(d), respectively, effective July 1, 2006. (See L. 2005, p. 1014.)

**Cross references:** For the legislative findings and declarations contained in the 2004 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2004.

**23-1-110. Organization, meetings, and staff.** (1) The commission shall adopt its own rules of procedure, shall elect a chairman, a vice-chairman, and such other officers as it deems necessary, and shall keep a record of its proceedings, which shall be open to public inspection. Meetings of the commission shall be open to the public at all times; but, by a two-thirds vote of the members present at any meeting, the commission may go into executive session for consideration of personnel matters in accordance with part 4 of article 6 of title 24, C.R.S. No final policy decision, resolution, rule, regulation, or formal action and no action approving a contract calling for the payment of money shall be adopted or approved at any executive session.

(2) (a) The governor shall appoint, with the consent of the senate, an executive director qualified by substantial training and experience in the field of higher education. The executive director shall be the executive officer of the commission and the department, shall serve at the pleasure of the governor, and shall receive compensation commensurate with the duties of the office as determined by the governor. The duties and responsibilities of the executive director shall be discharged in accordance with the policies, procedures, and directives of the commission and the department. The executive director shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the commission and the department. Offices held by the executive director and professional personnel are declared to be educational in nature and not under the state personnel system.

(b) (Deleted by amendment, L. 2008, p. 1474, § 11, effective May 28, 2008.)

(3) The executive director shall conduct all studies and programs of the commission and coordinate such studies and programs with those of other state agencies having duties and functions concerned with higher education, so as to avoid duplication of programs and staff.

(4) The executive director shall review and approve or deny any proposed action or recommendation of the private occupational school board acting pursuant to article 59 of title 12, C.R.S.

**Source:** L. 85: Entire article R&RE, p. 758, § 1, effective July 1. L. 90: (4) added, p. 1157, § 1, effective July 1. L. 93: (2) amended, p. 2123, § 4, effective June 11. L. 99: (2) amended, p. 881, § 5, effective July 1. L. 2005: (2)(b) amended, p. 278, § 7, effective August 8. L. 2008: (2) and (4) amended, p. 1474, § 11, effective May 28.

**Editor's note:** This section is similar to former § 23-1-104 as it existed prior to 1985.

**23-1-110.5. Study of higher education organization - legislative declaration - issues - report - repeal. (Repealed)**

**Source:** L. 99: Entire section added, p. 672, § 1, effective May 18.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2001. (See L. 99, p. 672.)



**23-1-111. Commission study - governance and administration of vocational and occupational education. (Repealed)**

**Source:** L. 85: Entire article R&RE, p. 758, § 1, effective July 1.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1986. (See L. 85, p. 758.)

**23-1-112. Tuition - reciprocal agreements.** Except as provided in section 23-1-108 (10), the commission shall identify those circumstances where the waiving of the nonresident differential in tuition rates, on a reciprocal basis with other states, would enhance educational opportunities for Colorado residents. Relative to such identified circumstances, the commission shall negotiate with the other states involved with the objective of establishing reciprocal agreements for the waiving of the nonresidential differential for Colorado residents attending state institutions of higher education in other states in exchange for Colorado state institutions of higher education waiving the nonresident differential for residents of the other states. Agreements negotiated between Colorado and other states shall provide for an equal number of resident and nonresident students to be exchanged between the states. Upon successful completion of such negotiations, the commission may identify the numbers of Colorado residents by grade level whose educational opportunities would be enhanced and the numbers of nonresident students by grade level for whom the nonresident differential is to be waived by the Colorado state institutions of higher education and may direct that the state institutions of higher education grant such waivers. The commission shall establish regulations for the administration of this section, based on the application of the closest college concept, and for the reporting to the general assembly of the numbers of students to whom the waivers are given.

**Source:** L. 85: Entire article R&RE, p. 759, § 1, effective July 1.

**Editor's note:** This section is similar to former § 23-1-112.5 as it existed prior to 1985.

**23-1-113. Commission directive - admission standards for baccalaureate and graduate institutions of higher education - policy - definitions.** (1) (a) The commission shall establish and the governing boards shall implement academic admission standards for first-time freshmen and transfer students at all state-supported baccalaureate and graduate institutions of higher education in the state. The commission shall establish and may subsequently review and amend the standards after consultation with the governing boards of institutions. The academic admission standards for students who do not have in-state status, as determined pursuant to section 23-7-103, shall equal or exceed those established for determining admission of in-state students.

(b) The standards established for first-time admitted freshman students shall use a combination of high school academic performance indicators and national assessment test scores for eligibility criteria. The academic performance indicators may include, but are not limited to, grade point average, class rank, and content standard performance level assessments. The criteria established and the specified performance levels shall be consistent with the role and mission established for each state-supported institution of higher education. In considering the high school academic performance indicators, the commission and the governing boards may take into account the rigor of a student's high school academic preparation and the academic content of the courses taken. In lieu of the established statewide criteria, each governing board may use additional criteria for up to twenty percent of the freshmen students annually admitted to each institution under the governing board's control. Students who meet the minimum criteria for admission are not guaranteed admission to the institution to which they have applied, but they are eligible for consideration.

(c) The standards established for transfer students shall use college academic performance indicators as the eligibility criteria for admitted transfer students. The academic

performance indicators may include, but are not limited to, grade point average, credit hours completed, and successful completion of basic skills courses, if required and as appropriate considering the role and mission of the receiving institution. In lieu of such criteria, additional criteria may be used for up to twenty percent of the admitted transfer students. The academic admission standards and policies established for transfer students shall be consistent with the student transfer agreements established by the commission pursuant to section 23-1-108 (7) (f). Students who meet the minimum criteria for admission shall not be guaranteed admission to the institution to which they have applied, but they shall be eligible for consideration.

(d) Repealed.

(1.5) (a) (I) The commission shall establish and the governing boards shall implement a policy pursuant to section 23-1-113.3 to identify matriculated students who need basic skills courses in English and mathematics and standards and procedures whereby state institutions of higher education may offer basic skills courses as provided in section 23-1-113.3. The commission, in consultation with the governing boards, shall ensure that the policy aligns with the admission policy adopted pursuant to subsection (1) of this section. In identifying the standards for basic skills, the commission may differentiate requirements for mathematics based on the prerequisite skills needed for required courses within a student's declared program of study.

(II) As part of the policy established pursuant to this paragraph (a), the commission may authorize a state institution of higher education to provide supplemental academic instruction even though the institution is not authorized to provide basic skills courses pursuant to section 23-1-113.3. The institution may receive stipend payments from the state pursuant to section 23-18-202 on behalf of an eligible undergraduate student, as defined in section 23-18-102 (5), who is enrolled in a college-level course that includes supplemental academic instruction.

(b) Each governing board shall adopt policies and procedures that are aligned with the policy established by the commission pursuant to paragraph (a) of this subsection (1.5) and that ensure that, to the extent required by the commission policy, each matriculated student takes or has taken basic skills placement or assessment tests in English and mathematics. The institution that enrolls the student shall select which tests to use from among those that meet the standards established in the commission policy and shall administer the tests. The commission, in consultation with the governing boards, shall ensure the comparability of the placement or assessment tests for the purpose of providing consistent reporting data as such data are required by section 23-1-113.3 (4).

(c) Students identified by institutions as needing basic skills courses based on their test scores shall complete the appropriate basic skills courses by the time the student completes thirty college-level credit hours. The commission, in consultation with the governing boards, shall ensure that each student identified as needing basic skills courses receives written notification identifying which state institutions offer basic skills courses and the approximate cost and relative availability of the basic skills courses, including any on-line courses.

(2) Repealed.

(3) (a) (Deleted by amendment, L. 2004, p. 201, § 16, effective August 4, 2004.)

(b) (Deleted by amendment, L. 96, p. 1236, § 78, effective August 7, 1996.)

(4) The commission shall work with the state board of education to align the academic admission standards established pursuant to this section with the guidelines for high school graduation requirements developed pursuant to section 22-2-106 (1) (a.5), C.R.S. Any revised academic admission standards shall be implemented no later than the selection of the freshman class of fall 2012.

(5) (a) On or before December 15, 2009, pursuant to section 22-7-1008, C.R.S., the commission shall consult with the state board of education, and the commission and the state board of education shall negotiate a consensus and adopt the description of postsecondary and workforce readiness.

(b) On or before July 1, 2015, and on or before July 1 every six years thereafter, the commission and the state board of education may adopt revisions to the postsecondary and workforce readiness description.



(6) (a) On or before December 15, 2010, pursuant to section 22-7-1008, C.R.S., the commission and the state board of education shall negotiate a consensus and adopt one or more postsecondary and workforce planning, preparation, and readiness assessments for use by school districts, boards of cooperative services, district charter high schools, and institute charter high schools. The commission and the state board of education also shall negotiate a consensus and adopt scoring criteria to indicate a student's level of postsecondary and workforce readiness, as provided in section 22-7-1008, C.R.S.

(b) Every six years after the adoption of the postsecondary and workforce planning, preparation, and readiness assessments pursuant to section 22-7-1008, C.R.S., the commission and the state board of education may negotiate a consensus and adopt revisions to such assessments. The commission and the state board of education may also revise the scoring criteria for the postsecondary and workforce planning, preparation, and readiness assessments, as necessary.

(7) Notwithstanding any provision of this section to the contrary, a student who graduates with a high school diploma that includes a postsecondary and workforce readiness endorsement based on criteria adopted by the state board and approved by the commission and the governing boards of the state institutions of higher education pursuant to section 22-7-1009, C.R.S., shall be guaranteed:

(a) To meet minimum academic qualifications for admission to, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at, all open, modified open, or moderately selective public institutions of higher education in Colorado; and

(b) To receive priority consideration, in conjunction with additional admissions criteria, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses, at all other public institutions of higher education in Colorado. The additional admissions criteria shall be determined by each institution of higher education.

(8) (a) On or before December 15, 2013, based on adoption of the description of postsecondary and workforce readiness, the commission shall, if necessary, revise the minimum academic admission standards for first-time freshmen at all state-supported baccalaureate and graduate institutions of higher education in the state to ensure that the minimum academic admission standards are aligned with the description of postsecondary and workforce readiness adopted by the commission and the state board of education.

(b) On or before December 15, 2013, the commission shall review the policy established pursuant to paragraph (a) of subsection (1.5) of this section and the basic skills placement or assessment tests administered pursuant to subsection (1.5) of this section to ensure that the policy and tests are aligned with the postsecondary and workforce readiness description.

(c) Consistent with any revisions adopted pursuant to this section to the description of postsecondary and workforce readiness, the commission shall, if necessary, adopt revisions to the minimum academic admission standards, the policy established pursuant to paragraph (a) of subsection (1.5) of this section, and the basic skills placement or assessment tests to ensure continued alignment with the postsecondary and workforce readiness description.

(d) In revising the minimum academic admission standards, the policy established pursuant to paragraph (a) of subsection (1.5) of this section, and the basic skills placement or assessment tests pursuant to this subsection (8), the commission shall consult with the governing boards of the state institutions of higher education.

(9) On or before February 15, 2012, and on or before February 15 each year thereafter, the department of higher education shall submit to the state board of education, the department of education, and the education committees of the house of representatives and the senate, or any successor committees, a report, subject to available data, concerning the enrollment, placement and completion of basic skills courses, first-year college grades, and types of academic certificates and degrees attained at all postsecondary institutions in Colorado and the United States for the high school graduating classes of the preceding six academic years. The department of higher education shall report the information disaggregated by high school and school district of graduation, to the extent practicable, and by ethnicity, gender, financial aid status, and any other characteristic deemed relevant by the

commission. The department of higher education and the department of education shall also make the report available on their respective web sites.

(10) On or before February 15, 2009, and on or before February 15 each year thereafter, the department of higher education shall submit to the department of education the unit records used for its reporting purposes under this section to enable the department of education to evaluate the effectiveness of the alignment of the preschool through postsecondary education systems in preparing students who demonstrate postsecondary and workforce readiness and subsequently succeed in postsecondary education and to enable the department of higher education to disseminate the unit records to the appropriate school districts.

(11) As used in this section, unless the context otherwise requires:

(a) "Academic skills courses" means courses that teach the basic academic skills necessary to succeed at a postsecondary institution.

(b) "Basic skills courses" means courses that are prerequisites to the level of work expected at a postsecondary institution and include academic skills courses and preparatory courses.

(c) "National assessment test scores" include, but are not limited to, ACT test scores and SAT test scores.

(d) "Preparatory courses" means courses designed for students who demonstrate a deficient skill level in the general competencies necessary to succeed in a standard postsecondary curriculum and include but are not limited to reading courses that focus on nontechnical vocabulary, word identification, and reading of everyday material; writing courses that focus primarily on grammar, usage, punctuation, and effective sentences and paragraphs; and mathematics courses primarily covering concepts introduced in elementary and intermediate algebra and geometry.

(e) "Supplemental academic instruction" means co-requisite instruction in reading, writing, or mathematics for students with limited academic deficiencies who are placed into college-level course work that is approved for statewide transfer pursuant to section 23-1-125 (3). "Supplemental academic instruction" does not include prerequisite basic skills courses.

**Source:** **L. 85:** Entire article R&RE, p. 759, § 1, effective July 1. **L. 93:** (1)(a) amended, p. 2124, § 5, effective June 11. **L. 94:** (1)(c) amended, p. 1795, § 7, effective May 31. **L. 95:** (1)(b) and (1)(c) amended and (3) added, p. 54, § 3, effective March 20; (2) amended, p. 39, § 2, effective January 1, 1996. **L. 96:** (1)(b) and (1)(c) amended, p. 171, § 1, effective July 1; (2) and (3)(b) amended, p. 1236, § 78, effective August 7. **L. 99:** (2) repealed, p. 849, § 1, effective May 24. **L. 2000:** (1)(b) amended, p. 1484, § 2, effective June 1. **L. 2004:** (1)(b)(I)(B), (1)(c), and (3)(a) amended, p. 201, § 16, effective August 4. **L. 2007:** (4) added, p. 678, § 5, effective May 2. **L. 2008:** (5) to (10) added, p. 769, § 5, effective May 14. **L. 2010:** (6)(b) amended, (HB 10-1013), ch. 399, p. 1912, § 35, effective June 10; (1)(c) amended, (HB 10-1208), ch. 191, p. 822, § 2, effective August 11. **L. 2012:** (1), (8), (9), and (10) amended and (1.5) and (11) added, (HB 12-1155), ch. 255, p. 1273, § 1, effective August 8.

**Editor's note:** Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective June 30, 1988. (See L. 85, p. 759.)

**Cross references:** For the legislative declaration contained in the 1996 act amending subsections (2) and (3)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2007 act enacting subsection (4), see section 1 of chapter 182, Session Laws of Colorado 2007.

**23-1-113.2. Department directive - admission standards for students holding international baccalaureate diplomas.** (1) (a) The general assembly hereby finds and declares that:

(I) It is in the best interests of the state to encourage the development and adoption of innovative and effective curricula for high school students;



(II) The international baccalaureate diploma program is an established and well-respected program designed to provide innovative curricula world-wide;

(III) In most other Western educational systems, secondary education includes the equivalent of a thirteenth grade, and the international baccalaureate diploma program conforms to this approach with its rigorous course of study over two years;

(IV) A student who has successfully completed the international baccalaureate diploma program is viewed as a highly attractive student by institutions of higher education due to the student's ambition, work habits, and scholarship;

(V) Nationwide, institutions of higher education recognize the high level of academic sophistication of international baccalaureate students and many offer considerable college credit as an inducement for those students to attend their institutions;

(VI) Many Colorado international baccalaureate students leave the state to attend institutions of higher education that provide attractive offers of credit; and

(VII) It is in the best interests of Colorado to retain the state's best and brightest students who can establish permanent residency and subsequently contribute to the intellectual and economic vitality of the state.

(b) It is therefore the intent of the general assembly in enacting this section that Colorado institutions of higher education be required to adopt comprehensive and reasonable policies to offer credit to international baccalaureate students.

(2) (a) The department shall ensure that each governing board of a state-supported baccalaureate and graduate institution of higher education in the state adopt and implement, for each of the institutions under its control, a policy for the acceptance of first-time freshman students who have successfully completed an international baccalaureate diploma program.

(b) Each governing board shall report the policy adopted and implemented pursuant to paragraph (a) of this subsection (2) to the department and shall make the policy available to the public in an electronic format.

(c) Each governing board shall set the number of credits the institution may grant to a student who has successfully completed an international baccalaureate diploma program. Except as otherwise provided in paragraph (d) of this subsection (2), the number of credits granted by an institution shall be, at a minimum, twenty-four semester credits or their equivalent. Each governing board shall identify the specific general education or elective requirements that the student satisfies by having successfully completed the international baccalaureate diploma program and shall outline the conditions necessary to award the credits.

(d) Each institution may determine the level of student performance necessary to grant the credits, as measured by a student's exam performance in the specific courses constituting the international baccalaureate diploma program. An institution may only grant less than twenty-four semester credits or their equivalent if the student has received a score of less than four on an exam administered as part of the international baccalaureate diploma program, in which case the number of semester credits or their equivalent granted by the institution shall be reduced accordingly.

(3) The provisions of this section shall not apply to any institution of higher education that has entered into a performance contract with the commission as an exemplary institution of higher education.

**Source: L. 2003:** Entire section added, p. 1213, § 1, effective August 6. **L. 2008:** (2)(a) and (2)(b) amended, p. 1474, § 12, effective May 28.

**23-1-113.3. Commission directive - basic skills courses.** (1) As part of the policy adopted by the commission pursuant to section 23-1-113 (1.5) (a), the commission shall adopt and the governing boards shall implement standards and procedures whereby state institutions of higher education may offer basic skills courses, as defined in section 23-1-113 (11) (b), pursuant to this section.

(2) (a) Adams state university, Colorado Mesa university, any local community college, and any community college governed by the state board for community colleges and occupational education may offer basic skills courses, as defined in section 23-1-113 (11)

(b), and receive stipend payments from the state on behalf of eligible undergraduate students, as defined in section 23-18-102 (5), enrolled in basic skills courses.

(b) Except as otherwise provided in subsection (5) of this section, any state institution of higher education not specified in paragraph (a) of this subsection (2) is prohibited from offering a basic skills course, unless the course is offered by contract through any of the institutions of higher education specified in paragraph (a) of this subsection (2).

(c) Notwithstanding the provisions of paragraph (b) of this subsection (2), Metropolitan state university of Denver and the university of Colorado at Denver are prohibited from offering basic skills courses either directly or through contract with an institution specified in paragraph (a) of this subsection (2).

(3) The state board for community colleges and occupational education, local community colleges, Adams state university, and Colorado Mesa university shall:

(a) Track all students who are required to take basic skills courses pursuant to section 23-1-113 (1.5) in order to determine whether those students successfully complete requirements for graduation:

(b) Compile data regarding student performance that describes with regard to students who take basic skills courses pursuant to section 23-1-113 (1.5):

(I) The school districts from which said students graduated;

(II) The number of said students graduating from each school district; and

(III) The basic skills for which said students require remediation; and

(c) Report annually to the department the data compiled pursuant to paragraphs (a) and (b) of this subsection (3).

(4) (a) The department shall transmit annually to the education committees of the senate and the house of representatives, or any successor committees, the joint budget committee, the commission, and the department of education an analysis of the data:

(I) Regarding students who take basic skills courses pursuant to section 23-1-113 (1.5); and

(II) Regarding the costs of providing basic skills courses pursuant to section 23-1-113 (1.5) and whether students who complete said basic skills courses successfully complete the requirements for graduation.

(b) The department shall disseminate the analysis to each school district and to public high schools within each district.

(5) Any state institution of higher education not specified in paragraph (a) of subsection (2) of this section offering a basic skills course on a cash-funded basis shall report annually to the department the same data that is required to be compiled and reported pursuant to paragraphs (a) and (b) of subsection (3) of this section.

(5.5) The institution and the department shall report the information specified in subsections (3) and (4) of this section on an individual student basis, using each student's unique student identifier.

(6) For purposes of this section, "local community college" shall include Aims community college and Colorado mountain college.

**Source:** **L. 2000:** Entire section added, p. 1482, § 1, effective June 1. **L. 2002:** (1) and (2)(a) amended, p. 1021, § 37, effective June 1. **L. 2004:** (2)(a) amended, p. 718, § 5, effective July 1, 2005. **L. 2005:** (2)(a) amended, p. 1014, § 5, effective July 1, 2006. **L. 2008:** (1), (3)(c), (4), (5), and (6) amended, p. 1475, § 13, effective May 28. **L. 2010:** (5.5) added, (HB 10-1171), ch. 401, p. 1935, § 6, effective August 11. **L. 2011:** (2)(a), IP(3), and (5.5) amended, (SB 11-265), ch. 292, p. 1365, § 15, effective August 10. **L. 2012:** (2)(a), IP(3), and (5.5) amended, (HB 12-1080), ch. 189, p. 757, § 10, effective May 19; (2)(c) amended, (SB 12-148), ch. 125, p. 425, § 8, effective July 1; (1), (2)(a), (3), (4)(a), and (5.5) amended, (HB 12-1155), ch. 255, p. 1277, § 2, effective August 8.

**Editor's note:** (1) Subsection (5.5) was amended in House Bill 12-1080. Those amendments were superseded by the amendment of this section in House Bill 12-1155. For the amendments to subsection (5.5) that were in effect from May 19, 2012, to August 8, 2012, see chapter 189, Session Laws of Colorado 2012. (L. 2012, p. 757.)



(2) Amendments to subsection (2)(a) and the introductory portion to subsection (3) by House Bill 12-1080 and House Bill 12-1155 were harmonized.

**Cross references:** For the legislative findings and declarations contained in the 2004 act amending subsection (2)(a), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2011 act amending subsection (2)(a), the introductory portion to subsection (3), and subsection (5.5), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (2)(c), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-1-113.5. Commission directive - resident admissions.** (1) It is the intent of the general assembly that all state-supported institutions of higher education operate primarily to serve and educate the people of Colorado. The general assembly therefore directs the commission to develop admission policies to ensure that, beginning with the fall term of 1994 and for the fall term of each year thereafter, not less than fifty-five percent of the incoming freshman class at each state-supported institution of higher education are in-state students as defined in section 23-7-102 (5). Commencing with the fall term of 1995, this requirement shall be met if the percentage of in-state students in the incoming freshman class for the then current fall term and the two previous fall terms averages not less than fifty-five percent. Such fifty-five percent requirement shall also apply to the percentage of incoming freshmen students who are admitted based on criteria other than standardized test scores, high school class rank, and high school grade point average pursuant to section 23-1-113 (1) (b). In addition, the commission shall develop admission policies to ensure, beginning with the fiscal year which begins July 1, 1994, and for each fiscal year thereafter, that not less than two-thirds of the total student enrollment, including undergraduate and graduate students, at each campus of each state-supported institution of higher education, except the Colorado school of mines, are in-state students as defined in section 23-7-102 (5) and that not less than sixty percent of the total student enrollment, including undergraduate and graduate students, at the Colorado school of mines are in-state students as defined in section 23-7-102 (5). This requirement shall be met if, commencing with the fiscal year that begins July 1, 1995, the fraction of in-state students, as defined in section 23-7-102 (5), enrolled at each state-supported institution of higher education, except the Colorado school of mines, averages not less than two-thirds of the total fiscal year student enrollment for the then current fiscal year plus the two previous fiscal years. For the Colorado school of mines, this fraction of in-state students shall be not less than three-fifths. Such policies shall be implemented no later than July 1, 1994.

(2) (a) The provisions of subsection (1) of this section regarding the fraction of students who are in-state students attending the Colorado school of mines shall also apply to western state Colorado university.

(b) Repealed.

(c) After one hundred percent of all qualified Colorado applicants have been accepted by Adams state university, Colorado Mesa university, and Western state Colorado university, the provisions of subsection (1) of this section regarding the fraction of students who are in-state students shall cease to apply to said three state institutions of higher education.

(d) After one hundred percent of all qualified Colorado applicants have been accepted by Adams state university, Fort Lewis college, Colorado Mesa university, and Western state Colorado university, the provisions of subsection (1) of this section regarding the fraction of students who are in-state students shall cease to apply to said four state institutions of higher education.

(3) The provisions of subsection (1) of this section regarding the fraction of students who are in-state students at institutions of higher education do not apply to any native American student who attends Fort Lewis college. The calculation of the fraction of students at Fort Lewis college who are in-state students shall exclude any native American student attending the college.

(4) (a) The provisions of subsection (1) of this section regarding the percentage and fraction of students who are in-state students, as defined in section 23-7-102 (5), shall not apply to the university of Colorado system or to Colorado state university if the following requirements are met:

(I) The percentage of incoming freshmen admitted to the institution who are in-state students calculated on a three-year rolling average and excluding foreign students, is not less than fifty-five percent;

(II) The fraction of students enrolled at each campus of the university of Colorado system or at Colorado state university who are in-state students is not less than two-thirds of the total student enrollment at the campus or at Colorado state university, respectively, including undergraduate and graduate students, calculated on a three-year rolling average and excluding foreign students;

(III) The institution continues to admit one hundred percent of all Colorado first-time freshman applicants who meet the guaranteed admissions criteria;

(IV) The percentage of in-state students admitted to each campus of the university of Colorado system or to Colorado state university based on criteria other than standardized test scores, high school class rank, and high school grade point average pursuant to section 23-1-113 (1) (b) does not fall below the average of the percentage admitted to the campus or to Colorado state university, respectively, for the three preceding academic years; and

(V) The total number of foreign students enrolled at each specific campus of the university of Colorado system or at Colorado state university does not exceed twelve percent of the total student enrollment, including undergraduate and graduate students, enrolled at the campus or at Colorado state university, respectively.

(b) The university of Colorado and Colorado state university shall annually report to the commission information demonstrating that qualified in-state students are not displaced or denied admissions as a result of the provisions of this subsection (4) and that any increase in the enrollment of foreign students at a specific campus of the university of Colorado system or at Colorado state university is a result of increased capacity at the campus or at Colorado state university, respectively.

(c) For purposes of this subsection (4), "foreign student" means a student who is counted as foreign and present in the United States on a nonimmigrant visa.

**Source:** **L. 93:** Entire section added, p. 2124, § 6, effective June 11. **L. 94:** Entire section amended, p. 1676, § 1, effective May 31. **L. 95:** (1) amended, p. 55, § 4, effective March 20. **L. 96:** (1) amended, p. 1236, § 79, effective August 7. **L. 97:** (2)(b) repealed, p. 25, § 1, effective March 20. **L. 2002:** (2)(c) added, p. 1281, § 5, effective July 1; (2)(d) added, p. 1260, § 18, effective July 1. **L. 2010:** (4) added, (SB 10-003), ch. 391, p. 1846, § 20, effective June 9. **L. 2011:** (2)(c) and (2)(d) amended, (SB 11-265), ch. 292, p. 1365, § 16, effective August 10. **L. 2012:** (2)(c) and (2)(d) amended, (HB 12-1080), ch. 189, p. 757, § 11, effective May 19; (2) amended, (HB 12-1331), ch. 254, p. 1268, § 9, effective August 1.

**Editor's note:** (1) Subsection (2)(d) was originally numbered as (2)(c) in House Bill 02-1419, but has been renumbered on revision for ease of location.

(2) Amendments to subsections (2)(c) and (2)(d) by House Bill 12-1080 and House Bill 12-1331 were harmonized.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act enacting subsection (2)(c), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration contained in the 2002 act enacting subsection (2)(d), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act adding subsection (4), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsections (2)(c) and (2)(d), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-1-113.7. Commission directive - nursing programs - employer-based gift and scholarship fund - legislative declaration.** (1) The general assembly recognizes the need to provide a high quality trained workforce necessary for the delivery of quality care to seniors and other individuals. The general assembly further recognizes that limiting the number of students participating in nursing programs in the state-supported institutions of



higher education frustrates the goal of delivering quality care to the number of those in need.

(2) The commission shall develop admissions policies for nursing programs at state-supported institutions of higher education that, subject to the availability of funds through the more nurses for Colorado fund created pursuant to subsection (4) of this section, allow for a greater number of students to be admitted to nursing education programs on or after July 1, 2002, who would otherwise not be admitted because of the limit on the number of students that the institution accepted in its nursing program prior to July 1, 2002.

(3) The commission shall direct the governing boards of state supported institutions of higher education with nursing programs to allow additional students of nursing to be admitted when there are sufficient funds available through the more nurses for Colorado fund created pursuant to subsection (4) of this section to support the increased costs associated with such students.

(4) There is hereby created in the office of the state treasurer the more nurses for Colorado fund. Such fund shall consist of gifts, grants, and donations from private entities and shall be continuously appropriated by the general assembly. Such moneys shall be used by the commission solely to support the development of additional capacity to allow a greater number of students to be admitted to the nursing programs in the state-supported institutions of higher education. Such moneys shall constitute gifts for the purposes of calculating fiscal year spending pursuant to section 20 of article X of the Colorado constitution.

(5) It is the intent of the general assembly that no general fund dollars be appropriated for the purposes of implementing the requirements of this section.

**Source: L. 2002:** Entire section added, p. 894, § 2, effective May 31.

**Cross references:** For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 238, Session Laws of Colorado 2002.

**23-1-114. Commission directive - study of role of state board for community colleges and occupational education and the local councils. (Repealed)**

**Source: L. 85:** Entire article R&RE, p. 760, § 1, effective July 1.

**Editor's note:** Subsection (2) provided for the repeal of the section, effective July 1, 1986. (See L. 85, p. 760.)

**23-1-115. Commission directive - review and action on existing degree programs. (Repealed)**

**Source: L. 85:** Entire article R&RE, p. 760, § 1, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

**23-1-116. Commission directive - education degree programs. (Repealed)**

**Source: L. 85:** Entire article R&RE, p. 760, § 1, effective July 1. **L. 2000:** Entire section repealed, p. 1546, § 6, effective August 2.

**23-1-117. Commission directive - administrative expense reduction. (Repealed)**

**Source: L. 87:** Entire section added, p. 844, § 2, effective April 22. **L. 90:** Entire section amended, p. 1138, § 2, effective July 1. **L. 96:** Entire section repealed, p. 1834, § 8, effective June 5.

**23-1-118. Commission directive - programs of excellence.** (1) The governing boards of state institutions of higher education may nominate, in order of importance,

selected programs at their institutions to be designated as programs of excellence. Program nominations by the governing boards shall be submitted to the commission at a time to be prescribed by the commission. As used in this section, "programs of excellence" means any academic program or consortium of programs of a state-supported institution of higher education that directly enrolls students and is distinguished by the quality of the educational experience that it offers and by the quality of the faculty and students it can attract.

(2) The commission, after consultation with the governing boards, shall develop and employ criteria for identifying programs of excellence in state institutions of higher education. Employing the criteria adopted, the commission shall designate programs and centers of excellence, which shall number not more than five percent of the academic programs offered in state-supported institutions of higher education. Programs of excellence designations shall be reviewed annually by the commission.

(3) The criteria employed by the commission shall take into account, for graduate programs, undergraduate programs, and both respectively, the following:

(a) For graduate programs, existing national prominence or a governing board-approved academic and financial plan to achieve such national prominence in the field within a specified period of time;

(b) The level of institutional commitment to the program measured in terms of the allocation of existing resources to the support of the program;

(c) Contribution to the future development of the state's economy including improvement in the business climate, growth of the state's employment base, development of professional and business leadership, and employment competence as a result of the program or center of excellence;

(d) Other features indicative of special quality and contribution to the social and cultural life of the state;

(e) Demonstrated capacity to attract and sustain financial support from sources independent of state appropriations;

(f) Consistency with academic master plans;

(g) Such additional criteria of excellence in higher education as the commission may determine to be appropriate.

(4) Employing the criteria established pursuant to subsection (2) of this section, the commission shall compile an initial list of programs to be designated programs of excellence and shall provide to the general assembly a plan for the support and enhancement of said programs. The plan shall include an analysis of projected funding requirements together with funding recommendations and a planned program for awarding increased funding to designated programs. Program nominations by the governing boards shall be submitted to the commission at a time to be prescribed by the commission. The list of programs and plans for financial support required by this section shall be delivered to the house and senate committees on education annually, on or before January 1.

(5) (Deleted by amendment, L. 96, p. 1237, § 81, effective August 7, 1996.)

(6) (a) For the support and enhancement of programs of excellence as provided in this section, the general assembly may appropriate annually, and the commission shall fully allocate annually to the governing boards, subject to available appropriations, an amount not greater than one percent of the total annual department of higher education general fund appropriation.

(b) As to programs of excellence which relate to advanced technology, the commission, subject to available appropriations, shall allocate funds to the governing boards. The commission shall determine the proportion of the total appropriation made pursuant to paragraph (a) of this subsection (6) that shall be allocated to programs of excellence concerned with advanced technology.

**Source:** L. 88: Entire section added, p. 842, § 1, effective July 1. L. 90: (1) and (4) amended and (6) added, p. 1140, § 4, effective July 1. L. 91: (1) amended, p. 512, § 6, effective June 6. L. 96: (4) and (5) amended, p. 1237, § 81, effective August 7. L. 99: (6)(b) amended, p. 882, § 8, effective July 1. L. 2004: (1) amended, p. 202, § 17, effective August 4.



**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-1-119. Department directive - transition between K-12 education system and postsecondary education system.** (1) The general assembly hereby finds and declares that, in order for students to succeed at state-supported institutions of higher education, the Colorado public system of elementary and secondary education must have provided students with the skills and abilities necessary to make the transition to the postsecondary system. The general assembly further recognizes that the establishment of goals and standards for providing transition skills and abilities is the prerogative of the elementary and secondary public education system. The general assembly recognizes that, in establishing these goals and standards, the elementary and secondary education system should be in communication with the postsecondary education system regarding the skills and abilities that are needed to succeed in higher education. It is therefore the intent of the general assembly that the department, in consultation with the department of education, adopt necessary policies and procedures to facilitate the transition for students between the two systems.

(2) In consultation with the state board of education, appropriate school boards, and governing boards of state-supported institutions of higher education, the department and the governing boards shall adopt necessary policies and procedures to promote the establishment of a mechanism for postsecondary institutions to report back to the secondary public education system concerning:

(a) The skills and abilities, and the level of proficiency thereof, that first-year students at such postsecondary institutions need to have in order to succeed;

(b) The level of proficiency in such skills and abilities currently exhibited by first-year students;

(c) The level of achievement currently exhibited by first-year students; and

(d) Any other information that will provide a better transition for students between the two education systems.

(3) In consultation with the state board of education, governing boards of state-supported institutions of higher education, and appropriate school district boards, the department shall aid the elementary and secondary public education system and the postsecondary public education system in establishing a network to connect the faculty of postsecondary institutions with the teachers in school districts for the purpose of exchanging information.

(4) For purposes of this section, "postsecondary" means related to instruction of students over the age of seventeen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.

(5) Repealed.

**Source:** **L. 92:** Entire section added, p. 557, § 1, effective March 25; (1) amended, p. 2184, § 62, effective June 2. **L. 97:** (1) amended, p. 951, § 10, effective August 6; (1) amended, p. 462, § 13, effective August 6. **L. 99:** (5) repealed, p. 849, § 2, effective May 24. **L. 2006:** (4) amended, p. 1214, § 8, effective July 1, 2007. **L. 2008:** (1), IP(2), and (3) amended, p. 1475, § 14, effective May 28.

**Editor's note:** Amendments to subsection (1) by House Bill 97-1253 and House Bill 97-1219 were harmonized.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (4), see section 1 of chapter 265, Session Laws of Colorado 2006.

**23-1-119.1. Department directive - notice of postsecondary educational opportunities and higher education admission guidelines.** (1) Annually, beginning in the spring of 2006, upon receipt of the names and mailing addresses of students enrolled in the eighth grade from the board of education of each school district in Colorado and the state charter school institute, the department shall provide notice of postsecondary educational oppor-

tunities to the parents or legal guardians of all eighth-grade students enrolled in public schools in the state. At a minimum, the notice shall specify:

(a) The Colorado commission on higher education's higher education admission guidelines and an explanation that compliance with the higher education admission guidelines is necessary for acceptance, but is not a guarantee of admission, to a state-supported institute of higher education;

(b) A student's potential need for remedial education and any related financial obligations that may fall to the student's parent or legal guardian if the student desires to apply to a state-supported, four-year college or university in Colorado but does not meet the higher education admission guidelines;

(c) A student who fails to pass a course listed in the higher education admission guidelines may enroll in a remedial course, successful completion of which will satisfy the requirements of the higher education admission guidelines;

(d) The availability of and instructions for acquiring information regarding financial assistance to attend an institution of higher education, including stipend amounts, tuition, and other financial aid;

(e) The annual state stipend amount as determined pursuant to section 23-18-202;

(f) The annual cost of in-state tuition for attendance at a public higher education institution in the state;

(g) The amount of the student's share of tuition as determined pursuant to section 23-18-207; and

(h) Notification that the stipend amount and the amount of tuition may change annually.

**Source:** L. 2005: Entire section added, p. 445, § 2, effective August 8. L. 2008: IP(1) amended, p. 1476, § 15, effective May 28.

**23-1-119.2. Commission directive - notice of college preparatory courses for high school students.** (1) The commission shall adopt a policy on or before October 1, 2005, to:

(a) Obtain, on or before June 1 of each school year, from the test administrator for the standardized, curriculum-based, achievement, college entrance exam administered pursuant to section 22-7-409 (1.5) (a), C.R.S., and the precollegiate exam the names and mailing addresses of all students enrolled in Colorado public schools who take either exam;

(b) Beginning in the spring of 2006, send an annual notice concerning college preparatory courses to the parent or legal guardian of each student who takes the standardized, curriculum-based, achievement, college entrance exam administered pursuant to section 22-7-409 (1.5) (a), C.R.S., or the precollegiate exam. The notice shall be sent to the parent or legal guardian prior to the start of a student's twelfth-grade year if the student took the standardized, curriculum-based, achievement, college entrance exam, or prior to the start of a student's eleventh-grade year if the student took the precollegiate exam. At a minimum, the notice shall include:

(I) A detailed description of what constitutes an inadequate score in mathematics, writing, or reading, based on the higher education admission guidelines established by the commission;

(II) Information regarding a student's ability to take basic, precollegiate skills courses while enrolled in a public high school; and

(III) Notice that a student's parent or legal guardian may contact the school in which the student is enrolled if he or she desires to develop a plan for the student to address the course work needed to meet the higher education admission guidelines adopted by the commission.

**Source:** L. 2005: Entire section added, p. 519, § 1, effective May 24.

**23-1-120. Commission directive - incentives for improvement initiative grants.**

(1) The general assembly finds that state encouragement would contribute to improving the quality and efficiency of the postsecondary education system in Colorado. Therefore, the



general assembly finds and declares that an incentives for improvement initiative grant program should be implemented to encourage initiatives at state institutions of higher education demonstrating innovative solutions and successful approaches to increasing efficiency, productivity, quality, and diversity in the Colorado postsecondary education system through a system of competitive matching grants to such institutions.

(2) The governing boards of state institutions of higher education, including local district community colleges, or a consortia of such institutions may apply for grants from the commission by submitting proposals for initiatives at their institutions to be designated as incentives for improvement. As used in this section, "incentives for improvement initiative" means any academic initiative of a state institution of higher education that, consistent with the statewide master plan for Colorado postsecondary education, is developed to achieve greater efficiency, productivity, quality, and diversity.

(3) The commission, after consultation with the governing boards and the education committees of both houses of the general assembly, shall identify areas of statewide interest in the postsecondary education system and develop criteria to be employed in evaluating proposals for incentives for improvement at state institutions of higher education. Such criteria shall be developed on or before August 1, 1992. The criteria developed by the commission to evaluate such proposals, designate recipients, and award grants shall take into account the following:

(a) The commitment by the governing board to provide matching funds pursuant to subsection (5) of this section for a period not to exceed five years;

(b) The level of institutional commitment to the initiative measured partially in terms of the reallocation of existing resources to the support of the initiative;

(c) Whether the initiative includes measures for performance evaluation that will assist and enhance existing methods of assessment and that demonstrate how the initiative improves efficiency, productivity, quality, and diversity;

(d) Consistency with the goals identified in the statewide master plan and institutional academic master plan;

(e) The degree of collaboration with business, industry, and other public entities in forming partnerships to enhance the quality of the educational experience; and

(f) Such additional criteria as the commission may determine to be appropriate.

(4) Grant applications and proposals by the governing boards shall be submitted to the commission by November 1, 1992. Employing the criteria established pursuant to subsection (3) of this section, the commission shall designate an initial list of initiatives to be designated incentives for improvement and shall provide to the general assembly such list, an analysis of the projected funding requirements of the initiative, the proposed grants, and a plan for the support and enhancement of said initiatives. The list of initiatives and proposed grants shall be delivered to the general assembly annually, on or before January 1, commencing January 1, 1993. Initial grants may be awarded to the governing boards of such institutions for the implementation of such programs on or before July 1, 1993. Incentives for improvement designations shall be reviewed annually by the commission.

(5) (a) Any grant awarded pursuant to subsection (3) of this section shall be made annually for a period not to exceed five years, with receipt in any year of such a grant being dependent upon the state institution providing matching funds for such year from existing resources of such institution and any private contributions in the following amount:

(I) During the first three years of the initiative, an amount equaling forty to sixty percent of the annual grant; or

(II) During the fourth and fifth years of the initiative, an amount equaling sixty-five to eighty-five percent of the annual grant.

(b) In determining the precise matching fund requirements for each institution selected for an improvement initiative, the commission shall give consideration to the size of the institutional budget and the percentage of such budget that is state general fund moneys.

(6) The general assembly may make a separate annual appropriation to the commission, subject to available revenues, in an amount not to exceed one percent of the total annual department of higher education general fund appropriation to governing boards to be used to award incentives for improvement initiative grants. The total amount appropriated annually by the general assembly shall be allocated annually by the commission.

(7) The commission, in consultation with the governing boards, shall adopt policies necessary to carry out the direction of this section and may, in furtherance of such policies, establish and implement:

- (a) A peer review process involving representation of the governing boards;
- (b) A schedule for directing grants to areas of statewide interest within the postsecondary education system;
- (c) A method for incorporating the cost of a successful incentives for improvement initiative into the annual appropriation to the governing board of an institution implementing such initiative upon completion of the five years of matching grants for such initiative; and
- (d) A system for the dissemination of information on successful and unsuccessful incentives for improvement initiatives as well as information on applying for grants under this section.

(8) Repealed.

(9) The commission shall promulgate such policies as may be necessary for the implementation of this section.

**Source: L. 92:** Entire section added, p. 564, § 1, effective May 14. **L. 96:** (3)(c) amended, p. 790, § 3, effective May 23; (8) repealed, p. 1835, § 15, effective June 5.

**23-1-121. Commission directive - approval of educator preparation programs - review.** (1) As used in this section, unless the context otherwise requires:

(a) “Approved educator preparation program” means an educator preparation program that has been reviewed pursuant to the provisions of this section and has been determined by the commission to meet the performance-based standards established by the commission pursuant to this section and the requirements of section 23-1-108.

(a.5) “Candidate” means a person who is participating in an initial, advanced, or other preparation program for education professionals in order to enter the education profession.

(b) “Institution of higher education” means a public, private, or proprietary postsecondary institution authorized by the commission to offer educator preparation programs.

(c) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(d) “Program” means a planned sequence of undergraduate, post-baccalaureate, or graduate courses and experiences for the purpose of preparing teachers and other school professionals to be effective educators in prekindergarten through twelfth grade settings. A program may lead to a degree, a recommendation for a state license by the department of education, both, or neither.

(e) “Unit” means the college, school, department, or other administrative body in a college, university, or other organization with the responsibility for managing or coordinating all programs offered for the initial and advanced preparation of educators, regardless of where the programs are administratively housed in an institution.

(2) The commission shall adopt policies establishing the requirements for educator preparation programs offered by institutions of higher education. The department shall work in cooperation with the state board of education in developing the requirements for educator preparation programs. At a minimum, the requirements shall ensure that each educator preparation program complies with section 23-1-125, is designed on a performance-based model, and includes:

(a) A comprehensive admission system that includes screening of a candidate’s dispositions for the field in which he or she is seeking licensure, consideration of a candidate’s academic preparation for entry into his or her desired endorsement area or areas, and preadmission advising for students who are considering becoming candidates. The department shall work in collaboration with the programs to define any dispositions considered to be appropriate for educators.

(b) Ongoing advising and screening of candidates by practicing educators or faculty members;

(c) Course work and field-based training that integrates theory and practice and educates candidates in the methodologies, practices, and procedures of standards-based



education, as described in parts 4 and 10 of article 7 of title 22, C.R.S., and specifically in teaching to the state academic standards adopted pursuant to section 22-7-406, C.R.S., or, beginning December 15, 2012, teaching to the state preschool through elementary and secondary education standards adopted pursuant to section 22-7-1005, C.R.S.;

(d) A requirement that, during the course of the preparation program, each teacher candidate in an initial licensure program complete a minimum of eight hundred hours, each principal and administrator candidate complete a minimum of three hundred hours, and each other advanced degree or add-on endorsement candidate complete appropriate supervised field-based experience that relates to predetermined learning standards and includes best practices and national norms related to the candidate's endorsement;

(e) A requirement that each candidate, prior to graduation, must demonstrate the skills required for licensure, as specified by rule of the state board of education pursuant to section 22-2-109 (3), C.R.S., in the manner specified by rule of the state board;

(f) Comprehensive, ongoing assessment including evaluation of each candidate's subject matter and professional knowledge and ability to demonstrate skill in applying the professional knowledge base.

(3) The commission shall also adopt policies to ensure that each educator preparation program offered by an institution of higher education includes implementation of procedures to monitor and improve the effectiveness of the program, as well as the effectiveness of its graduates pursuant to section 22-9-105.5, C.R.S., including at a minimum the following:

(a) Periodic review by the institution of higher education offering the educator preparation program to ensure that the program meets the requirements specified by the commission pursuant to this section;

(b) Implementation of a procedure for collecting and reviewing evaluative data concerning the educator preparation program, which shall include periodic surveys of graduates and employers and educator identifier system data, pursuant to section 22-68.5-102.5, C.R.S., for modifying the program as necessary in response to the data collected;

(c) Implementation of a procedure for reviewing the scores achieved on the professional competency assessments required pursuant to section 22-60.5-201, C.R.S., by candidates enrolled in and graduating from the program and modifying the program as necessary to improve those scores;

(d) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(4) (a) (I) The department, in conjunction with the department of education, shall review each educator preparation program offered by an institution of higher education as provided in paragraph (b) of this subsection (4) and shall establish a schedule for review of each educator preparation program that ensures each program is reviewed as provided in this section not more frequently than once every five years.

(II) (Deleted by amendment, L. 2008, p. 1476, 16, effective May 28, 2008.)

(III) An institution of higher education that chooses to offer a new educator preparation program or modify an existing program, either by significantly modifying the content or modifying the geographic area in which the program is offered, shall submit the new or modified program to the department for review pursuant to this section. The commission shall adopt policies and procedures for the review of new and modified programs.

(b) Each program review conducted pursuant to paragraph (a) of this subsection (4) shall ensure that the program meets the minimum requirements adopted pursuant to subsections (2) and (3) of this section and the requirements of section 23-1-108 and any policies adopted pursuant thereto. In determining whether to initially approve or continue the approval of an educator preparation program, the commission shall consider any recommendations made by the state board of education pursuant to section 22-2-109 (5), C.R.S., concerning the effectiveness of the program content. If the state board of education recommends that a program not be approved, the commission shall follow the recommendation by refusing initial approval of the program or placing the program on probation.

(c) The department shall work cooperatively with each institution of higher education that offers an educator preparation program to obtain any data requested by the department to determine the admission and enrollment patterns, completion rates, and effectiveness of

educator preparation programs offered by the institution. In addition, each institution of higher education shall, upon request from the department, prepare and submit an annual report to assist the department in reviewing the educator preparation programs pursuant to this section. The department shall collaborate with representatives from the governing boards of each institution of higher education that offer educator preparation programs in specifying the information to be included in the annual report.

(d) Following review of an educator preparation program, if the commission determines that the program does not meet the requirements specified in paragraph (b) of this subsection (4), it shall place the program on probation. The commission shall adopt policies specifying the procedures for placing a program on probation and for subsequently terminating a program, including a procedure for appeal. A program that is placed on probation shall not accept new students until the commission removes the program from probationary status. If the commission determines that termination of the approval of a program is necessary, the program shall be terminated within four years after said determination. If the commission places a program on probation based on the recommendation of the state board of education, the commission shall consult with the state board of education in determining whether the program should be reapproved or whether approval should be terminated.

(e) The commission shall adopt policies and procedures, including a procedure for appeal, to discontinue any educator preparation program at an institution of higher education that has not had any candidate successfully graduate during the previous five years.

(5) (Deleted by amendment, L. 2011, (SB 11-245), ch. 201, p. 842, § 2, effective August 10, 2011.)

(6) The department shall annually prepare a report concerning the enrollment in, graduation rates from, and effectiveness of the review of educator preparation programs authorized by the commission. In addition the report shall include data on the outcomes of graduates of educator preparation programs pursuant to section 22-68.5-102, C.R.S. The report shall also state the percentage of educator candidates graduating from each program during the preceding twelve months that applied for and received an initial license pursuant to section 22-60.5-201, C.R.S., and the percentage of the graduates who passed the assessments administered pursuant to section 22-60.5-203, C.R.S. For purposes of completing the report required pursuant to this subsection (6), as well as the report required pursuant to section 22-68.5-102.5, C.R.S., the department of higher education and the department of education shall share any relevant data that complies with state and federal regulations with the other agency. The department shall provide notice to the education committees of the senate and the house of representatives, or any successor committees, that the report is available to the members of the committees upon request.

(7) The general assembly encourages the department to collaborate with national accrediting bodies of educator preparation and to offer concurrent and joint site visits to educator preparation programs at institutions of higher education to the extent feasible.

(8) On or before December 30, 2013, the commission shall review the provisions of this section and any associated commission policies and make recommendations for a new system to review, evaluate, and assist educator preparation programs regarding the requirements of Senate Bill 08-212, enacted in 2008, Senate Bill 10-191, enacted in 2010, House Bill 09-1065, enacted in 2009, and Senate Bill 10-036, enacted in 2010.

**Source:** L. 93: Entire section added, p. 1049, § 11, effective June 3. L. 97: Entire section amended, p. 462, § 14, effective August 6; entire section amended, p. 951, § 11, effective August 6. L. 98: Entire section amended, p. 993, § 18, effective July 1. L. 99: Entire section R&RE, p. 1183, § 1, effective June 1. L. 2000: (5) and (6) amended, p. 1115, § 4, effective May 26; (1)(a) and (4)(b) amended, p. 1546, § 7, effective August 2. L. 2005: (6) amended, p. 189, § 33, effective April 7; (6) amended, p. 861, § 3, effective June 1. L. 2007: (4)(a)(II) amended, p. 116, § 1, effective August 3. L. 2008: (2)(c) amended, p. 771, § 6, effective May 14; IP(2), IP(3), (4)(a), (4)(b), (4)(c), and (6) amended, p. 1476, § 16, effective May 28. L. 2009: (6) amended, (SB 09-160), ch. 292, p. 1457, § 12, effective May 21. L. 2011: (1)(a) and (4)(b) amended, (SB 11-052), ch. 232, p. 1000, § 8, effective May 27; entire section amended, (SB 11-245), ch. 201, p. 842, § 2, effective August 10.



**Editor's note:** (1) Amendments to this section by House Bill 97-1219 and House Bill 97-1253 were harmonized.

(2) Amendments to subsection (6) by House Bill 05-1026 and Senate Bill 05-213 were harmonized.

(3) Amendments to subsections (1)(a) and (4)(b) by Senate Bill 11-052 and Senate Bill 11-245 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsections (1)(a) and (4)(b), see section 1 of chapter 232, Session Laws of Colorado 2011. For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 201, Session Laws of Colorado 2011.

### **23-1-121.1. Commission directive - approval of principal preparation programs - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1350, § 1, effective June 7.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 2005. (See L. 2002, p. 1350.)

### **23-1-121.3. Commission directive - principal and administrator preparation programs. (Repealed)**

**Source: L. 97:** Entire section added, p. 43, § 2, effective March 20. **L. 2011:** Entire section repealed, (SB 11-245), ch. 201, p. 846, § 3, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act repealing this section, see section 1 of chapter 201, Session Laws of Colorado 2011.

### **23-1-121.5. Commission directive - education in special education. (Repealed)**

**Source: L. 96:** Entire section added, p. 1786, § 3, effective June 3. **L. 2011:** Entire section repealed, (SB 11-245), ch. 201, p. 850, § 14, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act repealing this section, see section 1 of chapter 201, Session Laws of Colorado 2011.

### **23-1-121.7. Commission directive - paraprofessional programs. (1) The general assembly finds that:**

(a) The number of paraprofessionals who assist teachers in the classroom has increased in recent years both in absolute numbers and as a proportion of all instructional staff;

(b) Paraprofessionals are a valuable asset to school districts, providing many hours of additional instructional time for students, especially as public schools are called upon to provide increasing services for children with disabilities and children for whom English is a second language;

(c) As parents are requesting and school districts are attempting to provide smaller class sizes, the prudent use of well-qualified paraprofessionals to maximize individualized instruction provides school districts with a means to reach every student and to assist every student in reaching his or her full potential;

(d) In passing the "No Child Left Behind Act of 2001", Public Law 107-110, congress has expressed the intention that all paraprofessionals working in Title I programs be highly qualified;

(e) A paraprofessional working in a Title I program may demonstrate that he or she is highly qualified in several ways, including completion of at least two years of postsecondary study, obtaining an associates or higher degree, or successfully taking an assessment selected by the state or by the employing school district that meets state and federal standards and that demonstrates knowledge of and the ability to assist in instruction of reading, writing, and mathematics;

(f) Because state and federal laws identify specific criteria for paraprofessional qualification and school districts retain flexibility for using paraprofessional instructional support services, further regulation of paraprofessionals, including certification or licensing, is not required;

(g) To assist school districts in identifying highly qualified paraprofessionals, community colleges and four-year institutions of higher education are strongly encouraged to provide education paraprofessional preparation programs, and it is useful to create a procedure for approval of education paraprofessional preparation programs.

(2) As used in this section, unless the context otherwise requires, “paraprofessional” means a person who is trained to assist a licensed teacher or special services provider.

(3) Repealed.

(4) At a minimum, an approved education paraprofessional preparation program shall:

(a) Be aligned with federal and state standards for paraprofessionals;

(b) Consist of courses designed to convey to a student knowledge in reading, writing, mathematics, and science, and the skills necessary to assist a licensed teacher in teaching reading, writing, mathematics, and science;

(c) Be aligned with statewide transfer agreements.

**Source: L. 2003:** Entire section added, p. 1040, § 1, effective April 17. **L. 2011:** (3) repealed, (SB 11-245), ch. 201, p. 850, § 15, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act repealing subsection (3), see section 1 of chapter 201, Session Laws of Colorado 2011.

### **23-1-122. Commission directive - separately funded policy areas. (Repealed)**

**Source: L. 94:** Entire section added, p. 43, § 2, effective March 11. **L. 95:** (1) amended and (7) to (11) added, p. 49, § 2, effective March 20. **L. 97:** Entire section repealed, p. 1644, § 1, effective June 5.

### **23-1-122.1. Commission directive - separately funded policy areas - fiscal years 1996-97 and 1997-98. (Repealed)**

**Source: L. 96:** Entire section added, p. 89, § 2, effective March 20. **L. 97:** Entire section repealed, p. 1644, § 1, effective June 5.

### **23-1-123. Commission directive - fee policies - definitions. (Repealed)**

**Source: L. 94:** Entire section added, p. 1992, § 1, effective June 2. **L. 97:** (1), (2)(a), (3), (5), (6)(a), and (7) amended, p. 1398, § 1, effective July 1. **L. 99:** (5)(a)(II), IP(5)(a)(III), (5)(b)(I), (5)(b)(II), and IP(5)(b)(III) amended, p. 902, § 1, effective August 4; (5)(c)(III) amended, p. 624, § 22, effective August 4. **L. 2000:** (5)(i) added, p. 310, § 1, effective April 7. **L. 2009:** (5)(i), IP(7)(b), and (7)(b)(I) amended, (HB 09-1313), ch. 243, p. 1097, § 1, effective May 11. **L. 2011:** Entire section repealed, (HB 11-1301), ch. 297, p. 1418, § 5, effective August 10.

### **23-1-124. Commission directive - sophomore assessments. (Repealed)**

**Source: L. 2000:** Entire section added, p. 372, § 26, effective April 10. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

**23-1-125. Commission directive - student bill of rights - degree requirements - implementation of core courses - competency test - prior learning. (1) Student bill of rights.** The general assembly hereby finds that students enrolled in public institutions of higher education shall have the following rights:



(a) Students should be able to complete their associate of arts and associate of science degree programs in no more than sixty credit hours or their baccalaureate programs in no more than one hundred twenty credit hours unless there are additional degree requirements recognized by the commission;

(b) A student can sign a two-year or four-year graduation agreement that formalizes a plan for that student to obtain a degree in two or four years, unless there are additional degree requirements recognized by the commission;

(c) Students have a right to clear and concise information concerning which courses must be completed successfully to complete their degrees;

(d) Students have a right to know which courses are transferable among the state public two-year and four-year institutions of higher education;

(e) Students, upon completion of core general education courses, regardless of the delivery method, should have those courses satisfy the core course requirements of all Colorado public institutions of higher education;

(f) Students have a right to know if courses from one or more public higher education institutions satisfy the students' degree requirements;

(g) A student's credit for the completion of the core requirements and core courses shall not expire for ten years from the date of initial enrollment and shall be transferrable.

(2) **Degree requirements.** The commission shall establish a standard of a one-hundred-twenty-hour baccalaureate degree, not including specific professional degree programs that have additional degree requirements recognized by the commission.

(3) **Core courses.** The department, in consultation with each Colorado public institution of higher education, is directed to outline a plan to implement a core course concept that defines the general education course guidelines for all public institutions of higher education. The core of courses shall be designed to ensure that students demonstrate competency in reading, critical thinking, written communication, mathematics, and technology. The core of courses shall consist of at least thirty credit hours but shall not exceed forty credit hours. Individual institutions of higher education shall conform their own core course requirements with the guidelines developed by the department and shall identify the specific courses that meet the general education course guidelines. Any such guidelines developed by the department shall be submitted to the commission for its approval. In creating and adopting the guidelines, the department and the commission, in collaboration with the public institutions of higher education, may make allowances for baccalaureate programs that have additional degree requirements recognized by the commission. If a statewide matrix of core courses is adopted by the commission, the courses identified by the individual institutions as meeting the general education course guidelines shall be included in the matrix. The commission shall adopt such policies to ensure that institutions develop the most effective way to implement the transferability of core course credits.

(4) **Competency testing.** On or before July 1, 2010, the commission shall, in consultation with each public institution of higher education, define a process for students to test out of core courses, including specifying use of a national test or the criteria for approving institutionally devised tests. Beginning in the 2010-11 academic year, each public institution of higher education shall grant full course credits to students for the core courses they successfully test out of, free of tuition for those courses.

(4.5) **Prior learning.** Beginning in the 2013-14 academic year, each public institution of higher education shall adopt and make public a policy or program to determine academic credit for prior learning.

(5) **Nonpublic institutions of higher education.** (a) (I) A nonpublic institution of higher education may choose to conform its core course requirements with, or adopt core course requirements that meet, the general education course guidelines developed by the department pursuant to subsection (3) of this section and identify the specific courses that meet the general education course guidelines. The nonpublic institution of higher education may require all of the students enrolled in the institution to take the core course requirements that are conformed or adopted as provided in this paragraph (a) or may require only those students who are concurrently enrolled, pursuant to article 35 of title 22, C.R.S., in a high school and in the nonpublic institution of higher education to take said core course requirements.

(II) The core course requirements that a nonpublic institution of higher education conforms or adopts pursuant to this paragraph (a) shall comply with the number of credit hours required by the department and shall include courses in each of the subject areas identified by the department. The nonpublic institution of higher education shall submit to the department a description of its core course requirements with the initial review fee established pursuant to paragraph (c) of this subsection (5), and the department shall determine whether the nonpublic institution's core course requirements comply with the department's general education course guidelines. If the department determines that the nonpublic institution of higher education's core course requirements comply with the guidelines, then the nonpublic institution's core course credits shall be transferable to public institutions of higher education, and the nonpublic institution of higher education shall accept transfers of core course credits from the public institutions of higher education.

(b) A nonpublic institution of higher education that chooses to seek transferability of its core course credits pursuant to paragraph (a) of this subsection (5) shall, prior to the beginning of each academic year in which it seeks transferability, allow the department to review its general education core course requirements and its general education courses to ensure that they continue to meet the general education core course guidelines. The department may assess a fee as provided in paragraph (c) of this subsection (5) to offset the costs of the annual review.

(c) The commission, in consultation with the department, shall establish the amounts of the initial review fee and the annual review fee of a nonpublic institution of higher education's general education core course requirements and core courses, which amounts shall not exceed the direct and indirect costs incurred by the department in initially reviewing and in annually reviewing the nonpublic institution's general education core course requirements and core courses. The department is authorized to collect the fees from nonpublic institutions of higher education as provided in paragraphs (a) and (b) of this subsection (5).

(d) On or before March 1, 2016, the commission shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the implementation of this subsection (5). At a minimum, the report shall include:

(I) The names of the nonpublic institutions of higher education that are participating in the general education core course requirements;

(II) The number of students who have transferred core course credits to or from a nonpublic institution of higher education;

(III) Any issues that have arisen in the course of implementing this subsection (5); and

(IV) Any recommendations for changes to this subsection (5).

(e) As used in this subsection (5), "nonpublic institution of higher education" means an educational institution operating in this state that:

(I) Does not receive state general fund moneys in support of its operating costs;

(II) Admits as regular students only persons having a high school diploma or the recognized equivalent of a high school diploma;

(III) Is accredited by an accrediting agency or association approved by the United States department of education;

(IV) Provides an educational program for which it awards a bachelor's degree or a graduate degree;

(V) Is authorized by the department of higher education to do business in Colorado pursuant to section 23-2-103.3;

(VI) Maintains a physical campus or instructional facility in Colorado; and

(VII) Has been determined by the United States department of education to be eligible to administer federal financial aid programs pursuant to Title IV of the federal "Higher Education Act of 1965", as amended.

**Source:** L. 2001: Entire section added, p. 1473, § 1, effective June 6. L. 2008: (3) amended, p. 1478, § 17, effective May 28. L. 2010: (4) amended and (5) added, (SB



10-108), ch. 301, p. 1427, § 1, effective May 27. **L. 2012:** (3) amended, (HB 12-1155), ch. 255, p. 1281, § 8, effective August 8; (4.5) added and (5)(e)(III) amended, (HB 12-1072), ch. 62, p. 223, § 2, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act adding subsection (4.5) and amending subsection (5)(e)(III), see section 1 of chapter 62, Session Laws of Colorado 2012.

**23-1-126. Commission directive - nursing programs.** (1) The general assembly finds that Colorado is facing a shortage of nurses. It is determined by the general assembly that because nurses are crucial and integral to the health and welfare of the people of Colorado, it is therefore in the public interest to enhance educational opportunities for individuals pursuing a career in nursing.

(2) The commission shall evaluate and implement two-year educational programs for professional registered nursing. The commission shall adopt any necessary policies and rules for the implementation of a two-year program for professional registered nursing.

**Source:** **L. 2002:** Entire section added, p. 1306, § 25, effective June 7.

**23-1-127. Commission directive - regional education providers - criteria.** (1) The general assembly finds, determines, and declares that:

(a) The Colorado commission on higher education can better serve the citizens of this state by providing oversight and direction for the provision of regional education at Adams state university, Colorado Mesa university, and Western state Colorado university; and

(b) As regional education providers, Adams state university, Colorado Mesa university, and Western state Colorado university shall have as their primary goal the assessment of regional educational needs and, in consultation with the Colorado commission on higher education, the allocation of resources for the purposes of meeting those needs.

(2) A regional education provider's initiatives to meet its regional needs may include, but need not be limited to, the following:

- (a) Extension of existing programs;
- (b) Creation of new undergraduate programs;
- (c) Development of partnerships with two-year institutions; and
- (d) Facilitation of the delivery of graduate education through existing graduate institutions.

(3) The Colorado commission on higher education shall, in consultation with Adams state university, Colorado Mesa university, and Western state Colorado university, establish the criteria for designation as a regional education provider.

**Source:** **L. 2003:** Entire section added, p. 788, § 7, effective July 1. **L. 2011:** (1)(a), (1)(b), and (3) amended, (SB 11-265), ch. 292, p. 1366, § 17, effective August 10. **L. 2012:** (1) and (3) amended, (HB 12-1080), ch. 189, p. 758, § 12, effective May 19; (1) and (3) amended, (HB 12-1331), ch. 254, p. 1269, § 10, effective August 1.

**Editor's note:** Amendments to subsections (1) and (3) by House Bill 12-1080 and House Bill 12-1331 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsections (1)(a), (1)(b), and (3), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-1-128. Commission directive - American sign language in higher education institutions.** (1) As used in this section, unless the context otherwise requires:

(a) "American sign language" means the natural language recognized globally that is used by members of the deaf community and that is linguistically complete with unique rules for language structure and use, that include phonology, morphology, syntax, semantics, and discourse.

(b) "Higher education institution" means a state-supported institution of higher education.

(2) On and after August 4, 2004, a higher education institution in the state may offer one or more elective courses in American sign language.

(3) (a) On or before December 1, 2004, the commission shall adopt the necessary policies and procedures to require higher education institutions in the state to treat American sign language as a foreign language for purposes of granting and receiving academic credit.

(b) The commission shall specify in the policies and procedures described in paragraph (a) of this subsection (3) that:

(I) A student who is enrolled in a higher education institution that offers American sign language courses may receive academic credit for the courses either by completing the courses or by demonstrating proficiency in American sign language, if the higher education institution gives credit for completing courses or demonstrating proficiency in any other foreign language;

(II) Academic credit received for either completing an American sign language course or demonstrating proficiency in American sign language may be counted toward satisfaction of any foreign language requirements of the higher education institution offering the courses, except those requirements related to the content of the academic major; and

(III) Academic credit received for either successful completion of American sign language courses in a secondary school or higher education institution or demonstrated proficiency in American sign language may be counted toward satisfaction of the foreign language entrance requirements of a higher education institution in the state.

**Source: L. 2004:** Entire section added, p. 254, § 1, effective August 4.

**23-1-129. Commission directive - student loans.** On or before July 1, 2010, the commission shall adopt the necessary policies and procedures to require state-supported institutions of higher education to participate in student loan programs supported by the federal government.

**Source: L. 2010:** Entire section added, (HB 10-1428), ch. 390, p. 1831, § 9, effective June 9.

**23-1-130. Department duty to report on workforce needs and credential production - repeal.** (1) This section shall be known as the "Skills for Jobs Act".

(2) To the extent practicable within available resources and subject to the availability of data currently collected by and accessible to state agencies, the department, in consultation with the department of labor, the department of regulatory agencies, and any other entity the department deems appropriate, shall produce an annual report regarding state workforce need projections and credential production. The report shall:

(a) Indicate the state's anticipated workforce needs and the number of degrees, certificates, and other credentials that public and private institutions of higher education, private occupational schools, local district colleges, and area vocational schools expect to issue;

(b) To the extent provided by sources external to the department, indicate the state's anticipated number of degrees, certificates, and other credentials that high school vocational programs, apprenticeship programs, and other public or private workforce training programs expect to issue;

(c) Identify any workforce needs, including areas of specialization within a particular vocation, that may not be met by the education, training, and apprenticeship programs; and

(d) Identify institutions, public or private, that may meet projected workforce needs. The department, by January 15 of each year, beginning in 2013, shall provide a copy of the report to the education committees of the house of representatives and the senate, or any successor committees, to the economic and business development committee of the house of representatives, or any successor committee, to the business, labor, and technology committee of the senate, or any successor committee, and to the governor.

(3) The department shall send the report to every public postsecondary governing board in the state and shall work with the department of education to provide the report to the



state's public school districts, the Colorado charter school institute, and Colorado private elementary, middle, and high schools.

(4) This section is repealed, effective July 1, 2016.

**Source: L. 2012:** Entire section added, (HB 12-1061), ch. 74, p. 251, § 1, effective August 8.

**23-1-131. Commission directive - associate degree completion program - legislative declaration - definitions.** (1) (a) The general assembly finds and declares that, due to the demands of a global economy, the state and the nation have an increasing need for individuals with a postsecondary credential or degree. Many students begin their postsecondary education in a two-year institution and transfer to a four-year institution prior to receiving an associate degree. Some students who subsequently accumulate the credit hours necessary for an associate degree while at the four-year institution, or who leave the four-year institution prior to completing a bachelor's degree, would benefit from the award of an associate degree. The award of an associate degree not only rewards the student's efforts in attaining postsecondary education but also recognizes the investment of financial resources in postsecondary education by both the student and the state.

(b) Therefore, the general assembly declares that the state's two-year and four-year institutions should work in collaboration with the commission to develop a process that reduces a potential barrier to degree completion by providing students with information about the student's eligibility for an associate degree.

(2) As used in this section, unless the context otherwise requires:

(a) "Associate degree" means an associate of arts or associate of science degree.

(b) "Four-year institution" means a state-supported institution of higher education that is authorized to grant baccalaureate degrees.

(c) "Two-year institution" means a state-supported institution of higher education, or a local district college, that is authorized to grant associate degrees.

(3) (a) The commission shall collaborate with the governing boards of the two-year and four-year institutions to develop and coordinate a process to notify students concerning eligibility for the award of an associate degree. The notification process shall apply to students at a four-year institution who have accumulated seventy credit hours at a four-year institution and who transferred to the institution after completing the residency requirements for an associate degree at a two-year institution. The notification process developed pursuant to this section shall specify the role of the student, the department, and the two-year and four-year institutions in the process, with the role of the four-year institutions limited to providing contact information for eligible students. The notification process shall be implemented no later than the beginning of the 2013-14 academic year.

(b) The two-year and four-year institutions shall agree upon the contents of the notification to eligible students. At a minimum, the notification shall include the requirements for the degree audit by the two-year institution and information concerning the process for a student to be awarded an associate degree in the future if the degree requirements are not met or the student declines the associate degree at the time of the notification.

(c) Nothing in this section limits the ability of the governing boards of two-year and four-year institutions to develop reverse transfer agreements that are consistent with the intent of this section.

(4) Each two-year and four-year institution shall provide students with information concerning the process developed pursuant to this section.

**Source: L. 2012:** Entire section added, (SB 12-045), ch. 124, p. 419, § 1, effective April 18.

ARTICLE 1.5

Statewide Enrollment Plan

23-1.5-101 to 23-1.5-103. (Repealed)

Source: L. 2008: Entire article repealed, p. 1483, § 30, effective May 28.

Editor’s note: This article was added in 1994 and was not amended prior to its repeal in 2008. For the text of this article prior to 2008, consult the 2007 Colorado Revised Statutes.

ARTICLE 2

Degrees - Honorary - Academic Achievement

23-2-101.	Legislative declaration.	23-2-103.5.	Deposit of records upon discontinuance.
23-2-102.	Definitions.	23-2-103.7.	Authorized institutions - responsibilities.
23-2-102.5.	Applicability of article.	23-2-103.8.	Financial integrity - surety.
23-2-103.	Awarding degrees.	23-2-104.	Administration of article - complaints - injunctive proceedings.
23-2-103.1.	Commission - department - duties - limitation - reciprocity.	23-2-104.5.	Fees - public hearing.
23-2-103.3.	Authorization to operate in Colorado - renewal.	23-2-105.	Violation.
23-2-103.4.	Authorization - revocation - probationary status.		

23-2-101. **Legislative declaration.** The general assembly declares that this article is enacted for the general improvement of the educational programs available to the residents of the state of Colorado; to establish high standards for the education of such residents; to prevent misrepresentation, fraud, and collusion in offering such educational programs to the public; to eliminate those practices relative to such programs which are incompatible with the public interest; and to protect, preserve, foster, and encourage the educational programs offered by private educational institutions which meet generally recognized criteria of quality and effectiveness as determined through voluntary accreditation. To these ends, this article shall be liberally construed.

Source: L. 65: p. 1042, § 1. C.R.S. 1963: § 124-21-1. L. 81: Entire section amended, p. 1084, § 1, effective May 27.

ANNOTATION

In this section, the general assembly clearly delineates a general policy. Colorado Polytechnic Coll. v. State Bd. for Cmty. Colls., 173 Colo. 39, 476 P.2d 38 (1970).

- 23-2-102. **Definitions.** As used in this article, unless the context otherwise requires:
- (1) “Alternate enrollment” means the opportunity for a student enrolled in a private college or university that ceases operation to meet the student’s educational objectives through education provided by another authorized private college or university, a community college, an area vocational school, or any other educational arrangement acceptable to the department and the commission.
  - (2) “Authorization” means the authorization granted to a private college or university or seminary or religious training institution by the commission as provided in this article and the policies adopted pursuant to this article. Authorization is not an endorsement of the institution by either the commission or the department.
  - (3) “Commission” means the Colorado commission on higher education created pursuant to section 23-1-102.



(4) "Degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor or that the person named thereon has demonstrated proficiency in a field of endeavor as a result of formal preparation or training.

(5) "Department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(6) "Enrollment agreement" means the contract prepared by a private college or university or seminary or religious training institution that a student signs to indicate agreement to the terms of admission, delivery of instruction, and monetary terms as outlined in the institution's student handbook or catalog.

(7) "Governing board" means the elected or appointed group of persons that oversees and controls a private college or university or a seminary or religious training institution.

(8) "Honorary degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in a field of public service or has performed outstanding public service or that the person named thereon has demonstrated proficiency in a field of endeavor without having completed formal courses of instruction or study or formal preparation or training.

(9) "Out-of-state public institution" means an institution of higher education that is established by statute in a state other than Colorado.

(10) "Owner" means:

(a) An individual, if a private for-profit college or university is structured as a sole proprietorship;

(b) Partners, if a private for-profit college or university is structured as a partnership;

(c) Members in a limited liability company, if a private for-profit college or university is structured as a limited liability company; or

(d) Shareholders in a corporation that hold a controlling interest, if a private for-profit college or university is structured as a corporation.

(11) "Private college or university" means a postsecondary educational institution doing business or maintaining a place of business in the state of Colorado, which institution enrolls the majority of its students in a baccalaureate or postgraduate degree program.

(12) "Private nonprofit college or university" means a private college or university that maintains tax-exempt status pursuant to 26 U.S.C. sec. 501 (c) (3).

(13) "Private occupational school" means an institution authorized by the private occupational school division under the provisions of article 59 of title 12, C.R.S.

(14) "Seminary" or "religious training institution" means a bona fide religious post-secondary educational institution that is operating or maintaining a place of business in the state of Colorado, that is exempt from property taxation under the laws of this state, and that offers baccalaureate, master's, or doctoral degrees or diplomas.

(15) "State college or university" means a postsecondary educational institution, including a community or junior college, established and existing pursuant to law as an agency of the state of Colorado and supported wholly or in part by tax revenues.

**Source:** L. 65: p. 1042, § 2. C.R.S. 1963: § 124-21-2. L. 78: (5) amended, p. 375, § 1, effective July 1. L. 81: (3) to (5) amended and (3.5) added, p. 1084, § 2, effective May 27. L. 90: (3.5) amended, p. 1172, § 31, effective July 1. L. 2008: (1), (3), and (4) amended and (1.3) and (1.5) added, p. 1646, § 1, effective May 29. L. 2012: Entire section amended, (HB 12-1155), ch. 255, p. 1282, § 9, effective August 8.

#### ANNOTATION

**Subsection (3) is not unconstitutional** as an unlawful delegation of legislative powers. *Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls.*, 173 Colo. 39, 476 P.2d 38 (1970).

**In acting under the police power of the state** to carry out the purposes of the act, it is constitutionally permissible to determine the eligibility of private institutions of higher educa-

tion to grant degrees by reference to the criteria established by nationally recognized accrediting associations. *Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls.*, 173 Colo. 39, 476 P.2d 38 (1970).

**The supreme court takes judicial notice** that recognized accrediting associations such as are delineated in subsection (3) relating to the definition of a “private college or university” have become an integral part of the secondary education systems in America. *Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls.*, 173 Colo. 39, 476 P.2d 38 (1970).

**Where a private educational institution contended that subsection (3) is unconstitutional as applied** to it for the reason that it permits private associations of colleges to determine accreditation standards, and that since no statutory standards have been prescribed the subsection is unconstitutional as an unlawful delegation of legislative powers, the contention is without merit. *Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls.*, 173 Colo. 39, 476 P.2d 38 (1970).

**23-2-102.5. Applicability of article.** (1) (a) A private college or university that enrolls a majority of its students at the certificate or associate level is regulated by the division of private occupational schools and the private occupational school board pursuant to article 59 of title 12, C.R.S., and is not subject to the provisions of this article.

(b) If, as a result of changes in student enrollment, a private college or university at times meets the definition provided in section 23-2-102 (11) and should therefore be regulated by the department and the commission, and at other times meets the requirements of paragraph (a) of this subsection (1) and should therefore be regulated by the division of private occupational schools and the private occupational schools board, the private college or university is subject to regulation by the entity that is appropriate as of July 1, 2012, if the private college or university is authorized as of said date, or as of the date the institution applies for authorization, and the institution shall be regulated by the same entity for the following three years. The department shall review the status of the private college or university every three years after July 1, 2012, or every three years after initial authorization, whichever is appropriate, to determine whether the institution should be subject to regulation by the department and the commission or by the division of private occupational schools and the private occupational school board.

(2) An out-of-state public institution may request authorization pursuant to the provisions of this article from the department and the commission. In seeking and maintaining authorization pursuant to this article, an out-of-state public institution is subject to the same criteria and requirements that apply to a private college or university.

**Source: L. 2012:** Entire section added, (HB 12-1155), ch. 255, p. 1283, § 10, effective August 8.

**23-2-103. Awarding degrees.** Notwithstanding the provisions of section 7-50-105, C.R.S., or any other law to the contrary, a person, partnership, corporation, company, society, or association doing business in the state of Colorado shall not award, bestow, confer, give, grant, convey, or sell to any other person a degree or honorary degree upon which is inscribed, in any language, the word “associate”, “bachelor”, “baccalaureate”, “master”, or “doctor”, or any abbreviation thereof, or offer courses of instruction or credits purporting to lead to any such degree, unless the person, partnership, corporation, company, society, or association is a state college or university; a private college or university that is authorized pursuant to this article; a private occupational school; a seminary or religious training institution that is authorized pursuant to this article; or a school, college, or university that offers courses of instruction or study in compliance with standards prescribed by articles 2, 22, 25, 32, 33, 35, 36, 38, 40, 41, 43, and 64 of title 12, C.R.S.

**Source: L. 65:** p. 1043, § 3. **C.R.S. 1963:** § 124-21-3. **L. 76:** Entire section amended, p. 414, § 10, effective July 1; entire section amended, p. 424, § 6, effective July 1. **L. 78:** Entire section amended, p. 314, § 2, effective July 1. **L. 81:** Entire section amended, p. 1085, § 3, effective May 27. **L. 83:** Entire section amended, p. 575, § 9, effective April 22. **L. 88:** Entire section amended, p. 568, § 7, effective July 1. **L. 91:** Entire section amended, p. 1912, § 23, effective June 1. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1284, § 11, effective August 8.



**Cross references:** For authority of corporations existing for educational purposes to award degrees, see § 7-50-105.

#### ANNOTATION

**This section prohibits** any person, partnership, corporation, company, society, or association from awarding the types of degrees awarded by plaintiff, but, it excepts a “state college or university” and a “private college or

university”, and also certain other designated educational institutions. Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls., 173 Colo. 39 476 P.2d 38 (1970).

**23-2-103.1. Commission - department - duties - limitation - reciprocity.** (1) The commission shall:

(a) Establish procedures for authorizing, reauthorizing, and revoking the authorization of private colleges and universities and seminaries and religious training institutions in accordance with the provisions of this article, including but not limited to procedures by which an institution may apply for authorization or reauthorization and the procedures the department shall follow in reviewing applications and making recommendations to the commission;

(b) Grant or deny authorizations, renew authorizations, and revoke authorizations pursuant to sections 23-2-103.3 and 23-2-103.4;

(c) Establish the types and amounts of fees that a private college or university or seminary or religious training institution shall pay as required in section 23-2-104.5; and

(d) Establish policies to require private colleges and universities and seminaries and religious training institutions to submit to the department, upon request, data that is directly related to student enrollment and degree completion and, if applicable, student financial aid and educator preparation programs as described in section 23-1-121. The director of the commission and an employee of the department of higher education shall not divulge or make known in any way data for individual students or personnel, except in accordance with judicial order or as otherwise provided by law. A person who violates this paragraph (d) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., and shall be removed or dismissed from public service on the grounds of malfeasance in office.

(2) The department shall administer the provisions of this article in accordance with the provisions of this article and the policies, guidelines, and procedures adopted by the commission for the administration of this article. To administer this article, the department shall have, but need not be limited to, the following duties:

(a) Recommending that the commission grant, deny, revoke, or renew an authorization to operate a private college or university or seminary or religious training institution;

(b) Maintaining a list of the private colleges and universities and seminaries and religious training institutions that have authorizations on file with the department; and

(c) Establishing and maintaining a process in accordance with section 23-2-104 for reviewing and appropriately acting on a complaint concerning a private college or university or seminary or religious training institution operating in this state, including enforcing applicable state laws if the complaint is based on a claim of deceptive trade practice.

(3) The commission and the department are not authorized to regulate the operations of, including but not limited to the content of courses provided by, a private college or university or seminary or religious training institution except to the extent expressly set forth in this article.

(4) The commission may negotiate and enter into interstate reciprocity agreements with other states if, in the judgment of the commission, the agreements do not obligate a private college or university or seminary or religious training institution to comply with standards or requirements that exceed the standards and requirements specified in this article and the agreements will assist in accomplishing the purposes of this article.

**Source:** L. 2012: Entire section added, (HB 12-1155), ch. 255, p. 1284, § 12, effective August 8.

**23-2-103.3. Authorization to operate in Colorado - renewal.** (1) (a) To operate in Colorado, a private college or university shall apply for and receive authorization from the commission. A private college or university shall obtain a separate authorization for each campus, branch, or site that is separately accredited. A private, nonprofit college or university shall submit with its application verification of nonprofit status, including a copy of the institution's tax-exempt certificate issued by the Colorado department of revenue.

(b) After receiving an application, the department shall review the application to determine whether the private college or university is institutionally accredited by a regional or national accrediting body recognized by the United States department of education. The department shall not recommend and the commission shall not approve an application from a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state or that has substantially the same owners, governing board, or principal officers as a private college or university that, in the two years preceding submission of the application, has had its accreditation suspended or withdrawn or has been prohibited from operating in another state.

(2) To operate in Colorado, a private college or university shall be institutionally accredited on the basis of an on-site review by a regional or national accrediting body recognized by the United States department of education; except that a private college or university may operate for an initial period without accreditation if the commission determines, in accordance with standards established by the commission, that the private college or university is likely to become accredited in a reasonable period of time or is making progress toward accreditation in accordance with the accrediting body's policies. The commission may grant a provisional authorization to a private college or university to operate for an initial period without accreditation. The private college or university shall annually renew its provisional authorization and report annually to the commission concerning the institution's progress in obtaining accreditation.

(3) A private college or university shall immediately notify the department of any material information related to an action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations. In addition, the institution shall immediately notify the department if the institution's accrediting body is no longer recognized by the United States department of education.

(4) To operate in Colorado, a seminary or religious training institution shall apply for and receive authorization from the department and establish that it qualifies as a bona fide religious institution and as an institution of postsecondary education, as defined by rules promulgated by the commission. A seminary or religious training institution that meets the criteria and rules established by this subsection (4) is exempt from the provisions of subsections (1), (2), and (3) of this section. A bona fide religious institution and an institution of postsecondary education that applies for authorization pursuant to this subsection (4) shall pay the fee established according to section 23-2-104.5.

(5) A private college or university that has authorization from the commission pursuant to this section and maintains its accreditation shall apply to the department for reauthorization in accordance with the schedule for reaccreditation by its accrediting body or every three years, whichever is longer. A seminary or religious training institution shall apply for reauthorization every three years. A private college or university or seminary or religious training institution that seeks reauthorization shall submit an application in accordance with the procedures and policies adopted by the commission and shall pay the reauthorization fee established by the commission pursuant to section 23-2-104.5.

(6) Nothing in this section shall preclude a seminary or religious training institution from seeking accreditation.

(7) (a) By January 1, 2013, the commission shall adopt procedures by which a private college or university or seminary or religious training institution may renew its authorization to operate in Colorado. To renew its authorization to operate in Colorado, a private college or university or seminary or religious training institution shall demonstrate that it



continues to meet the minimum operating standards specified in this section and section 23-2-103.8, if applicable.

(b) (I) A private college or university that has had its accreditation reaffirmed without sanction, is in compliance with section 23-2-103.8, and is not subject to investigation pursuant to section 23-2-103.4 is presumed qualified for renewal of authorization, and the department shall recommend renewal for a period of three years or the length of the institution's accreditation, if applicable, whichever is longer.

(II) A seminary or religious training institution that continues to meet the minimum operating standards specified in this section is presumed qualified for renewal of authorization, and the department shall recommend that the commission renew the institution's authorization for three additional years.

(c) If a private college or university or seminary or religious training institution cannot demonstrate that it meets the minimum operating standards specified in this section or section 23-2-103.8, if applicable, the department shall recommend that the commission deny the institution's application for renewal of the authorization. If, within six months after receiving the notice of denial of the application for renewal, the institution corrects the action or condition that resulted in denial of the application for renewal, the institution may reapply for renewal of the authorization. If the institution does not correct the action or condition within the six-month period, it may submit a new application for authorization after correcting the action or condition.

(d) If a private college or university is under a sanction from its accrediting body at the time it files an application for renewal of authorization to operate in Colorado, the department may recommend that the commission renew the institution's authorization or that the commission grant a probationary renewal of the institution's authorization. If an institution receives a probationary renewal of its authorization, the institution shall reapply for renewal of its authorization annually until the accrediting body lifts the sanction, and the institution shall annually report to the commission concerning the institution's progress in removing the sanction.

(e) If the department recommends that the commission grant a probationary renewal of authorization or deny an application for renewal of authorization, the commission shall notify the private college or university or seminary or religious training institution concerning the recommendation, and the department and the commission shall proceed in accordance with the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

**Source: L. 2008:** Entire section added, p. 1647, § 2, effective May 29. **L. 2009:** (5)(b) amended, (SB 09-292), ch. 369, p. 1966, § 70, effective August 5. **L. 2012:** Entire section amended, (HB 12-1155), ch. 255, p. 1286, § 13, effective August 8.

**23-2-103.4. Authorization - revocation - probationary status.** (1) (a) If the commission has reason to believe that a private college or university or seminary or religious training institution meets one or more of the grounds specified in subsection (2) or (3) of this section for revocation of authorization or for placing an institution on probationary status, the commission may order the department to investigate the private college or university or seminary or religious training institution and make a recommendation concerning whether to revoke the institution's authorization or to place the institution on probationary status.

(b) To assist the department in conducting an investigation pursuant to this subsection (1), the commission may subpoena any persons, books, records, or documents pertaining to the investigation, require answers in writing, under oath, to questions the commission or the department may ask, and administer an oath or affirmation to any person in connection with the investigation. In conducting the investigation, the department may physically inspect an institution's facilities and records. A subpoena issued by the commission pursuant to this paragraph (b) is enforceable by any court of record in this state.

(c) Based on the findings of an investigation pursuant to this subsection (1), the department shall recommend to the commission that the commission should or should not revoke the institution's authorization or place the institution on probationary status. If the

department recommends revocation or probationary status, it shall identify the applicable grounds for revocation or probationary status specified in subsection (2) or (3) of this section, and the department and the commission shall proceed in accordance with the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(2) With regard to the authorization of a private college or university, the commission may:

(a) Revoke the private college's or university's authorization or place the institution on probationary status if the private college or university:

(I) Fails to meet any of the minimum standards set forth in this article or in the commission's policies or rules adopted to implement this article;

(II) Fails to substantially comply with the applicable laws or rules adopted or implemented by other state-level boards or agencies that have jurisdiction over the institution; or

(III) Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates;

(b) Revoke the private college's or university's authorization if the institution loses its accreditation;

(c) Place the private college or university on probationary status if the institution's accrediting body places the institution on probation or the equivalent; or

(d) Revoke the private college's or university's authorization or place the private college or university on probationary status if the United States department of education ceases to recognize the institution's accrediting body.

(3) The commission may revoke a seminary's or religious training institution's authorization or place the institution on probationary status if the seminary or religious training institution:

(a) No longer meets the definition of a seminary or religious training institution specified in section 23-2-102;

(b) Fails to meet any of the other minimum standards set forth in this article or in the commission's policies or rules adopted to implement this article; or

(c) Violates the federal criminal laws or the criminal laws of this state or any other state in which the institution operates.

**Source: L. 2012:** Entire section added, (HB 12-1155), ch. 255, p. 1289, § 14, effective August 8.

**23-2-103.5. Deposit of records upon discontinuance.** (1) (a) If a private college or university or seminary or religious training institution ceases operating within this state, the owner of the institution or his or her designee shall deposit with the department the original or legible true copies of all educational records of the institution.

(b) If the commission determines that the records of a private college or university or seminary or religious training institution that ceases operating within the state are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the department, the commission may seek a court order authorizing the department to seize and take possession of the records.

(c) The department or the attorney general may enforce the provisions of this subsection (1) by filing a request for an injunction with a court of competent jurisdiction.

(d) The commission shall adopt policies for the implementation of this subsection (1).

(2) A person may request, in accordance with the provisions of the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S., a copy of a record held by the department pursuant to this section.

(3) The department shall permanently retain any student transcripts received pursuant to this section. The department shall retain any other records received pursuant to this section for ten years following the date on which it receives or obtains the records. After the required retention period, the department shall dispose of the records in a manner that will adequately protect the privacy of personal information included in the records.



**Source: L. 85:** Entire section added, p. 772, § 1, effective June 6. **L. 2008:** Entire section amended, p. 1478, § 18, effective May 28; entire section amended, p. 1649, § 3, effective May 29. **L. 2012:** Entire section R&RE, (HB 12-1155), ch. 255, p. 1290, § 15, effective August 8.

**Editor's note:** Amendments to this section by Senate Bill 08-018 and Senate Bill 08-167 were harmonized.

**23-2-103.7. Authorized institutions - responsibilities.** (1) A private college or university or seminary or religious training institution that is authorized pursuant to this article:

(a) Shall not make or cause to be made any oral, written, or visual statement or representation that violates section 23-2-104 (4);

(b) Shall annually provide to the department a copy of the institution's enrollment agreement if the institution uses an enrollment agreement;

(c) Shall provide bona fide instruction, in accordance with the standards and criteria set by the institution's accrediting body; and

(d) If the ownership of the institution changes, shall provide to the department, within thirty days after the change, any material information concerning the transaction that is requested by the department.

(2) If a private college or university or seminary or religious training institution violates any of the requirements specified in subsection (1) of this section, the department may recommend to the commission that the institution's authorization be revoked or placed on probationary status.

**Source: L. 2012:** Entire section added, (HB 12-1155), ch. 255, p. 1291, § 16, effective August 8.

**23-2-103.8. Financial integrity - surety.** (1) A private college or university is exempt from the provisions of this section if:

(a) The private college or university is a party to a performance contract with the commission under section 23-5-129; or

(b) The private college or university:

(I) Has been accredited for at least twenty years by an accrediting agency that is recognized by the United States department of education;

(II) Has operated continuously in this state for at least twenty years; and

(III) Has not at any time filed for bankruptcy protection pursuant to title 11 of the United States code.

(2) (a) If a private college or university is not exempt from the requirements of this section pursuant to subsection (1) of this section, the commission shall determine the financial integrity of the private college or university by confirming that the institution meets or does not meet the criteria specified in paragraph (b) or (c) of this subsection (2). The private college or university shall present as part of the application for authorization verifiable evidence that the institution meets the criteria specified in paragraph (b) or (c) of this subsection (2).

(b) (I) A private college or university may demonstrate financial integrity by meeting the following criteria:

(A) The institution has been accredited for at least ten years by an accrediting agency that is recognized by the United States department of education;

(B) The institution has operated continuously in this state for at least ten years;

(C) During its existence, the institution has not filed for bankruptcy protection pursuant to title 11 of the United States code;

(D) The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and

(E) The institution meets or exceeds the pro rata refund policies required by the federal department of education in 34 CFR 668 or, if the institution does not participate in federal

financial aid programs, the institution's refund and termination procedures comply with the requirements of the institution's accrediting body.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (b) to the contrary, a private college or university is not required to meet the criteria specified in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (b) if the institution is part of a group of private colleges and universities that are owned and operated by a common owner, so long as all of the other institutions in the group meet the criteria specified in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (b).

(c) A private college or university may demonstrate financial integrity by meeting the following criteria:

(I) The institution has received and maintains full accreditation without sanction from an accrediting agency that is recognized by the United States department of education, which accrediting agency requires the institution to maintain surety or an escrow account or has affirmatively waived or otherwise removed the requirement for the institution;

(II) The institution has been continuously authorized by the commission for at least five years;

(III) The institution owns and operates a permanent instructional facility in the state;

(IV) The institution annually provides to the commission audited financial statements for the most recent fiscal year that demonstrate that the institution maintains positive equity and profitability;

(V) The institution maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in 34 CFR 668.172; and

(VI) The institution meets or exceeds the pro rata refund policies required by the federal department of education in 34 CFR 668 or, if the institution does not participate in federal financial aid programs, the institution's refund and termination procedures comply with the requirements of the institution's accrediting body.

(3) (a) Each private college or university that is not exempt from the requirements of this section pursuant to subsection (1) of this section and cannot demonstrate financial integrity as provided in subsection (2) of this section, as determined by the commission, shall file evidence of surety in the amount calculated pursuant to subsection (5) of this section prior to receiving authorization to operate in Colorado. The surety may be in the form of a savings account, deposit, or certificate of deposit that meets the requirements of section 11-35-101, C.R.S., or an alternative method approved by the commission, or one bond as set forth in this section covering the applying institution. The commission may disapprove an institution's surety if the commission finds the surety is not sufficient to provide students with the indemnification and alternative enrollment required by this section.

(b) If a private college or university files a bond, the bond shall be executed by the institution as principal and by a surety company authorized to do business in this state. The bond shall be continuous unless the surety is released as set forth in this section.

(4) The surety shall be conditioned to provide indemnification to any student or enrollee, or to any parent or legal guardian of a student or enrollee, that the commission finds to have suffered loss of tuition or any fees as a result of any act or practice that is a violation of this article and to provide alternate enrollment as provided in subsection (7) of this section for students enrolled in an institution that ceases operation.

(5) The amount of the surety that a private college or university submits pursuant to subsection (3) of this section is the greater of five thousand dollars or an amount equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the institution for the period or term during the applicable academic year for which programs of instruction are offered including, but not limited to, programs offered on a semester, quarter, monthly, or class basis; except that the institution shall use the period or term of greatest duration and expense in determining this amount if the institution's academic year consists of one or more periods or terms. Following the initial filing of the surety with the department, the private college or university shall recalculate the amount of the surety annually based on a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the institution for the applicable period or term.



(6) (a) A student or enrollee, or a parent or guardian of the student or enrollee, who claims loss of tuition or fees may file a claim with the commission if the claim results from an act or practice that violates a provision of this article. The claims that are filed with the commission are public records and are subject to the provisions of article 72 of title 24, C.R.S.; except that the department shall not make the claims records public if the release would violate a federal privacy law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (6), the commission shall not consider a claim that is filed more than two years after the date the student discontinues his or her enrollment with the institution.

(7) (a) If a private college or university ceases operation, the commission may make demand on the surety of the institution upon the demand for a refund by a student or the implementation of alternate enrollment for the students enrolled in the institution, and the holder of the surety or, if the surety is a bond, the principal on the bond shall pay the claim due in a timely manner. To the extent practicable, the commission shall use the amount of the surety to provide alternate enrollment for students of the institution that ceases operation through a contract with another authorized private college or university, a community college, an area vocational school, or any other arrangement that is acceptable to the department. The alternate enrollment provided to a student shall replace the original enrollment agreement, if any, between the student and the private college or university; except that the student shall make the tuition and fee payments as required by the original enrollment agreement, if any.

(b) A student who is enrolled in a private college or university that ceases operation and who declines the alternate enrollment required to be offered pursuant to paragraph (a) of this subsection (7) may file a claim with the commission for the student's prorated share of the prepaid, unearned tuition and fees that the student paid, subject to the limitations of paragraph (c) of this subsection (7). The commission shall not make a subsequent payment to a student unless the student submits proof of satisfaction of any prior debt to a financial institution in accordance with the commission's rules concerning the administration of this section.

(c) If the amount of the surety is less than the total prepaid, unearned tuition and fees that have been paid by students at the time the private college or university ceases operation, the department shall prorate the amount of the surety among the students.

(d) The provisions of this subsection (7) are applicable only to those students enrolled in the private college or university at the time it ceases operation, and, once an institution ceases operation, no new students shall be enrolled therein.

(e) The commission is the trustee for all prepaid, unearned tuition and fees, student loans, Pell grants, and other student financial aid assistance if an authorized private college or university ceases operation.

(f) The commission shall determine whether offering alternate enrollment for students enrolled in an authorized private college or university that ceases operation is practicable without federal government designation of the commission as trustee for student loans, Pell grants, and other student financial aid assistance pursuant to paragraph (e) of this subsection (7).

(8) For claims made pursuant to this section that do not involve a private college or university that ceases operation, the commission shall conduct a hearing to determine whether there is loss of tuition or fees, and, if the commission finds that a claim is valid and due the claimant, the commission shall make demand upon the surety. If the holder of the surety or, if the surety is a bond, the principal on the bond fails or refuses to pay the claim due, the commission shall commence an action on the surety in a court of competent jurisdiction; except that the commission shall not file an action more than six years after the date of the violation that gives rise to the right to file a claim pursuant to this section.

(9) The authorization for a private college or university is suspended by operation of law when the institution is no longer covered by surety as required by this section. The department shall give written notice to the institution at the last-known address, at least forty-five days before the release of the surety, to the effect that the institution's authorization is suspended by operation of law until the institution files evidence of surety in like amount as the surety being released.

(10) The principal on a bond filed under the provisions of this section is released from the bond after the principal serves written notice thereof to the commission at least sixty days before the release. The release does not discharge or otherwise affect a claim filed by a student or enrollee or his or her parent or legal guardian for loss of tuition or fees that occurred while the bond was in effect or that occurred under any note or contract executed during any period of time when the bond was in effect, except when another bond is filed in a like amount and provides indemnification for any such loss.

(11) Each private college or university that files a surety pursuant to subsection (3) of this section shall provide annual verification of continued coverage by surety as required by this section in a report to the commission due by January 1 of each year. The commission may disapprove a surety if it finds that the surety is not adequate to provide students with the indemnification and alternate enrollment required by this section.

(12) If a private college or university that is exempt from the provisions of this section or that demonstrates financial integrity pursuant to subsection (2) of this section ceases to operate in this state, the state attorney general may file a claim against the institution on behalf of students enrolled in the institution at the time it ceases operation to recover any amount of unearned, prepaid tuition that may be owed to the students.

(13) A seminary or religious training institution is not subject to the requirements of this section.

**Source: L. 2012:** Entire section added, (HB 12-1155), ch. 255, p. 1291, § 16, effective August 8.

**23-2-104. Administration of article - complaints - injunctive proceedings.** (1) The department shall administer this article pursuant to statute and appropriate policies adopted by the commission.

(2) (a) The commission shall specify procedures by which a student or former student of a private college or university or seminary or religious training institution may file a complaint with the department concerning the institution in which the student is or was enrolled. If a former student files a complaint, he or she must do so within two years after discontinuing enrollment at the institution. The department may investigate complaints based on a claim of a deceptive trade practice as described in subsection (4) of this section. The department does not have jurisdiction to consider complaints that infringe on the academic freedom or religious freedom of, or question the curriculum content of, a private college or university or seminary or religious training institution; except that the department has jurisdiction to consider a complaint that pertains to the general education core course requirements of a private college or university or seminary or religious training institution, or to any of the specific core courses included in said requirements, if the private college or university or seminary or religious training institution chooses to seek transferability of its general education core courses pursuant to section 23-1-125 (5).

(b) Upon receipt of a complaint, the department shall verify that the complaint warrants investigation under the guidelines established by the commission and as a deceptive trade practice. A complaint will warrant investigation only when the student has exhausted all complaint and appeals processes available at the institution. The department shall dismiss a complaint if it does not warrant investigation under the commission's guidelines and is not a deceptive trade practice. If the complaint warrants investigation, the department shall first forward the complaint to the institution for a written response. The institution shall have thirty days to respond in writing to the department and to forward a copy of the response to the student. During the thirty-day period, the institution may attempt to resolve the complaint with the student, and the department shall assist in the efforts to resolve the complaint. If the department determines at any time that a complaint no longer warrants investigation, the department shall dismiss the complaint.

(c) If a complaint is not resolved during the thirty-day period, the department may dismiss the complaint based on the institution's response, investigate the complaint further, or recommend that the commission evaluate the merits of the complaint. If the commission finds the complaint is meritorious, it may recommend that the private college or university or seminary or religious training institution take appropriate action to remedy the complaint.



(d) If the private college or university or seminary or religious training institution does not take the action recommended by the commission, the commission may forward the complaint and findings to the attorney general.

(3) The commission, acting through the attorney general, may proceed by injunction against any violation of this article, but an injunction proceeding or an order issued therein or as a result thereof shall not bar the imposition of any other penalty for violation of this article.

(4) It is a deceptive trade practice for:

(a) An institution or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the institution or agent knows or reasonably should have known the statement or representation to be materially false, substantially inaccurate, or materially misleading;

(b) An institution or agent to represent falsely or to deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that an institution is a school;

(c) An institution or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services;

(d) An institution or agent to intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;

(e) An institution or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution; the number or educational experience qualifications of its faculty; the extent or nature of any approval received from any state agency; or the extent or nature of any accreditation received from any accrediting agency or association;

(f) An institution or agent to provide prospective students with testimonials, endorsements, or other information that has the tendency to materially mislead or deceive prospective students or the public regarding current practices of the institution;

(g) An agent representing an out-of-state school to represent, directly or by implication, that the school is authorized by the state of Colorado or approved or accredited by an accrediting agency or body when the institution has not been authorized, approved, or accented;

(h) An institution to designate or refer to its sales representatives by titles that imply the sales representatives have training in academic counseling or advising if they do not.

**Source:** L. 65: p. 1044, § 4. C.R.S. 1963: § 124-21-4. L. 78: Entire section amended, p. 375, § 2, effective July 1. L. 2008: Entire section amended, p. 1649, § 4, effective May 29. L. 2010: (2)(a) amended, (SB 10-108), ch. 301, p. 1429, § 2, effective May 27. L. 2012: Entire section amended, (HB 12-1155), ch. 255, p. 1296, § 17, effective August 8.

#### ANNOTATION

**This section charges the state department of education with the administration of the statutory provisions authorizing injunctive relief against violations through the office of the at-**

torney general of the state of Colorado. Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls., 173 Colo. 39, 476 P.2d 38 (1970).

**23-2-104.5. Fees - public hearing.** (1) The commission shall establish fees to be paid by a private college or university or seminary or religious training institution for the administration of this article. The amount of the fees shall reflect the direct and indirect costs of administering this article. The commission shall propose, as part of the department's annual budget request, an adjustment in the amount of the fees that it is authorized to collect pursuant to this section. The budget request and the adjusted fees shall reflect the direct and indirect costs of administering this article.

(2) The commission may establish a fee to be paid to the department by a private college or university that is authorized pursuant to this article and that applies for approval of an educator preparation program pursuant to section 23-1-121. The amount of the fee shall reflect the direct and indirect costs of the department in administering the provisions of section 23-1-121.

(3) Prior to establishing a new fee or increasing the amount of an existing fee, the commission shall hold a public hearing to discuss and take testimony concerning the new fee or increase in fees. The commission shall provide notice of the public hearing and the proposed new fee or fee increase to each private college or university and seminary and religious training institution at least thirty days prior to the date of the public hearing.

**Source:** L. 2008: Entire section added, p. 1648, § 2, effective May 29. L. 2012: Entire section amended, (HB 12-1155), ch. 255, p. 1298, § 18, effective August 8.

**23-2-105. Violation.** Any person, partnership, corporation, company, society, association, or agent thereof doing business or maintaining a place of business in the state of Colorado who violates the provisions of section 23-2-103 commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**Source:** L. 65: p. 1044, § 5. C.R.S. 1963: § 124-21-5. L. 81: Entire section amended, p. 1085, § 4, effective May 27. L. 2002: Entire section amended, p. 1529, § 238, effective October 1.

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

This section imposes penal sanctions for violation of this article. Colo. Polytechnic Coll.

v. State Bd. for Cmty. Colls., 173 Colo. 39, 476 P.2d 38 (1970).

ARTICLE 3

Higher and Vocational Education  
Loan Guarantee Act

23-3-101.	Short title.		respect to the guarantee loan program.
23-3-102.	Legislative declaration.		
23-3-103.	Definitions.	23-3-106.	Contributions to commission.
23-3-104.	Designation of commission.	23-3-107.	Age qualification for loan guarantee.
23-3-105.	Duties, powers, and limitations of commission with		

**23-3-101. Short title.** This article shall be known and may be cited as the “Higher and Vocational Education Loan Guarantee Act of 1968”.

**Source:** L. 68: p. 172, § 1. C.R.S. 1963: § 124-22-13.

**23-3-102. Legislative declaration.** The general assembly finds and declares that the provision of a higher or vocational education for all residents of this state who desire such an education and are properly qualified therefor is important to the welfare and security of this state and nation and, consequently, serves an important public purpose and that many qualified students are deterred by financial considerations from completing their education, with a consequent irreparable loss to the state and nation of talents vital to welfare and security. The number of qualified persons who desire higher or vocational education is increasing rapidly, and the physical facilities, faculties, and staffs of the institutions of higher education operated by the state will have to be expanded greatly to accommodate



such persons, with an attendant sharp increase in the cost of educating such persons. A system of financial assistance through guaranteed loans for qualified residents of college age will enable them to attend qualified institutions of their choice.

**Source:** L. 68: p. 172, § 1. C.R.S. 1963: § 124-22-12.

**23-3-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "College" means any public or nonprofit institution of higher education which is recognized and approved by the regional accrediting agency for the state where such educational institution is situated or which is approved by the United States commissioner of education and which provides a course of study leading to the granting of a postsecondary degree or diploma.

(2) "Vocational school" means any eligible business or trade school, technical institution, or other vocational institution as determined by the state board for community colleges and occupational education or as approved by the United States commissioner of education.

**Source:** L. 68: p. 172, § 1. C.R.S. 1963: § 124-22-14.

**23-3-104. Designation of commission.** The Colorado commission on higher education, referred to in this article as the "commission", shall be the state agency to administer and supervise the administration of funds under Title IV of Public Law 89-329, known as the "Higher Education Act of 1965", and amendments thereto, and Public Law 89-287, known as the "National Vocational Student Loan Insurance Act of 1965", and amendments thereto.

**Source:** L. 68: p. 173, § 1. C.R.S. 1963: § 124-22-15.

**Cross references:** For the provisions of Public Law 89-329 and Public Law 89-287, see chapters 27 and 28 of title 20, U.S.C.

**23-3-105. Duties, powers, and limitations of commission with respect to the guarantee loan program.** (1) The commission has the following powers in furtherance of the guarantee loan program:

(a) To arrange for the guarantee by nongovernmental organizations of loans of money by private lenders to persons who are residents of this state and who have been accepted for enrollment or who are in good standing at colleges or vocational schools in this state or elsewhere in order to assist them in meeting the expenses of their education. Any agreement entered into by the commission to effect such arrangement shall require that any such nongovernmental organization hold the funds received from the commission in a reserve fund to be expended only upon the certification to it by such a private lender that any such loan is in default and only upon the assignment to such organization of the promissory note in default. Such funds then may be applied to reimburse said lender the principal amount of the loan and accrued interest thereon remaining unpaid. Such agreement shall contain provisions for termination upon thirty days' written notice of either contracting party. Upon the effective date of such termination, such organization shall refund to the state such portion of the reserve fund as may exceed the total amount of loans guaranteed by the organization pursuant to such agreement and remaining unpaid. As additional repayments of loans are reported to it by a private lender, the organization shall refund such portion of the reserve fund then remaining as from time to time exceeds the total loans remaining unpaid.

(b) To enter into contracts with the United States government, or any department, agency, or office thereof, or any nongovernmental organization for the purpose of receiving funds or services therefrom or providing for the administration of the program thereby or in connection with any acts necessary or incidental to the performance of its powers or duties under this article;

(c) To adopt rules and regulations governing the guarantee loan program;

- (d) To secure commitments from private lenders to make loans to students under the program;
- (e) To participate in any federal government program for guaranteed loans or subsidies to students and to receive, hold, and disburse funds made available by any agency of the United States for the purpose for which they are made available;
- (f) To perform such other acts as may be necessary or appropriate in connection with the guarantee loan program;
- (g) To provide that there shall be no fee or other charge made to the applicant for loans for processing and periodic review of the qualifications for such loans.
- (2) The commission shall be under the following limitations:
- (a) It shall not itself lend any moneys under the program.
- (b) It shall not become responsible for or guarantee any debt, contract, or liability of any other person, company, or corporation under the program.
- (c) It shall not expend funds under the program greater than the amounts appropriated to it by the general assembly and available to it as a result of contributions.

**Source:** L. 68: p. 173, § 1. C.R.S. 1963: § 124-22-16.

**23-3-106. Contributions to commission.** (1) The commission is empowered to accept and receive from any individual, association, or corporation or any governmental unit gifts, grants, donations, or contributions of money or property.

(2) Such contributions or the proceeds thereof shall be used by the commission in furtherance of postsecondary education.

**Source:** L. 68: p. 174, § 1. C.R.S. 1963: § 124-22-17. L. 77: (2) amended, p. 1096, § 2, effective February 24.

**23-3-107. Age qualification for loan guarantee.** Any person otherwise qualifying for a loan shall not be disqualified to receive a loan under the guarantee loan program by reason of his being under the age of twenty-one years. For the purpose of applying for, receiving, and repaying a loan, any person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges, and obligations of a person of legal age with respect thereto.

**Source:** L. 68: p. 174, § 1. C.R.S. 1963: § 124-22-18.

**Cross references:** For age of competence generally, see § 13-22-101.

ARTICLE 3.1

Student Loan Program

**Cross references:** For exclusion from the “Uniform Consumer Credit Code” of loans made or guaranteed by an agency, instrumentality, or political subdivision of the state pursuant to this article, see § 5-1-202 (1)(f); for the “Higher Education Act of 1965”, see 20 U.S.C. 1001 et seq.

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## PART 3

## COLLEGE SAVINGS PLAN

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## PART 1

## ADMINISTRATION OF PROGRAM

**23-3.1-101. Legislative declaration.** The general assembly hereby declares that the availability of improved access to and choice of higher education opportunities in this state

will benefit the residents of this state and that the establishment of a student loan program will assist such residents in meeting the expenses incurred in availing themselves of such opportunities.

**Source:** L. 79: Entire article added, p. 807, § 1, effective July 1. L. 84: Entire section amended, p. 617, § 1, effective April 10.

**23-3.1-102. Definitions.** As used in this article or in the specified portion of this article, unless the context otherwise requires:

(1) “Borrower” means any person who receives a loan made, originated, disbursed, serviced, or guaranteed by the division, or made, purchased, originated, disbursed, or serviced by collegeinvest, created by part 2 of this article, or made from or in anticipation of an institutional loan as defined in section 23-3.1-202 by one or more institutions of higher education or a nonprofit corporation acting on behalf of one or more institutions of higher education.

(1.3) “Clock hour” means a period of time that is the equivalent of:

(a) A fifty-to-sixty-minute class, lecture, or recitation; or

(b) A fifty-to-sixty-minute faculty-supervised laboratory, shop training, or internship.

(1.5) “Commission” means the Colorado commission on higher education.

(2) “Department” means the department of higher education.

(3) “Director”, as used in this part 1, means the director of the division.

(4) “Division” means the student loan division in the department which shall constitute the successor division for all obligations incurred by the loan guarantee division formerly established by this part 1.

(4.2) “Educational loan” means a student loan which is:

(a) Secured in such manner as the division or the authority created by part 2 of this article deems appropriate or prudent; and

(b) Not authorized by Title IV, Part B of the federal “Higher Education Act of 1965”, as amended.

(4.5) “Guaranteed student loan” means a student loan authorized by Title IV, Part B of the federal “Higher Education Act of 1965”, as amended.

(5) “Institution of higher education” means an educational institution which meets all of the following criteria:

(a) It admits as regular students persons having a certificate of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully or persons who have the ability to benefit from the training offered;

(b) (I) It is a college, university, or community or junior college inside the United States which is either accredited by a nationally recognized accrediting agency or association or, if not so accredited, meets the alternative criteria set forth in the federal “Higher Education Act of 1965”, as amended, 20 U.S.C. 1085 (b); or

(II) It is a vocational or occupational school inside the United States which is either accredited by a nationally recognized accrediting agency or association or meets the criteria set forth in the federal “Higher Education Act of 1965”, as amended, 20 U.S.C. 1085 (c) (4), and, in the case of private occupational schools located in Colorado, holds a certificate of approval as required by article 59 of title 12, C.R.S.;

(c) (I) It provides an educational program for which it awards a bachelor’s degree; or

(II) It provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) It provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(IV) It is a private occupational school providing a program of not less than three hundred clock hours of classroom instruction or its equivalent to prepare students for gainful employment in a recognized occupation.

(6) “Lender” means any bank operating under a national or state charter, any domestic savings and loan association operating under a national or state charter, any domestic branch or agency of a foreign bank duly licensed by a state or the United States, any credit



union established pursuant to federal law or the law of the state in which its principal place of operation is established, any insurance company authorized to do business within this state, any institution of higher education that applies for and receives formal approval of the division as an eligible lender pursuant to the rules of the division, any pension fund eligible under the federal "Higher Education Act of 1965", 20 U.S.C. 1071 et seq., as amended, any secondary market operation established pursuant to the federal "Education Amendments of 1972", as amended, or the authority created by part 2 of this article.

(7) (a) "Resident" means any person attending an institution of higher education in Colorado, any person attending an institution of higher education outside Colorado who would qualify for Colorado in-state tuition status under article 7 of this title, or any person attending an institution of higher education outside Colorado who has applied for a loan from a lender approved by the division.

(b) "Resident" includes a parent of any person specified in paragraph (a) of this subsection (7) if such person is a dependent of such parent.

(8) "Student loan" means a loan made to finance higher education opportunities or to consolidate or refinance loans made to finance higher education opportunities, which loan is made, originated, disbursed, or serviced by the division or by collegeinvest, created pursuant to part 2 of this article, or which one or more institutions of higher education or a nonprofit corporation acting on behalf of one or more institutions of higher education may make from or in anticipation of an institutional loan as defined in section 23-3.1-202 or which is guaranteed by the division and may include guaranteed student loans and educational loans.

**Source:** . **L. 79:** Entire article added, p. 807, § 1, effective July 1. **L. 81:** (1) R&RE, (1.5) added, and (7) amended, p. 1087, §§ 1, 2, effective May 29; (5)(b) and (5)(c)(IV) amended, p. 852, § 26, effective July 1. **L. 82:** (1.3) added and (5)(c)(IV) amended, p. 342, § 1, effective March 22. **L. 83:** (5)(a) and (5)(b) amended, p. 782, § 1, effective April 5; (6) amended, p. 784, § 1, effective April 5. **L. 84:** (1) and (4) R&RE, (4.2), (4.5), and (8) added, and (6) amended, p. 617, 618, §§ 2, 3, effective April 10; (6) amended, p. 376, § 12, effective July 1. **L. 85:** (7)(a) amended, p. 773, § 2, effective April 5. **L. 2000:** IP and (3) amended, p. 1296, § 17, effective May 26. **L. 2004:** (1), (6), and (8) amended, p. 558, § 1, effective July 1.

**23-3.1-103. Division created - director - staff.** (1) There is hereby created the student loan division in the department of higher education and the office of director of the division. The division and the director shall exercise their powers and perform their functions under this article as if the same were transferred to the department by a **type 2** transfer. The director of collegeinvest shall be the director of the division. The director, with the approval of the executive director of the commission, shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the division. The director and professional personnel are declared to hold educational offices and to be exempt from the state personnel system.

(2) Personnel hired by the director, with the approval of the executive director of the commission, on and after July 1, 2002, to carry out the duties and functions of the division shall receive compensation for their services as determined by the director. Such personnel are declared to hold educational offices and to be exempt from the state personnel system but shall, by acceptance of employment, be subject to the provisions of article 51 of title 24, C.R.S.

(3) Any personnel hired within the state personnel system pursuant to subsection (1) of this section prior to July 1, 2002, shall retain all rights related to state personnel system and retirement benefits under the laws of this state until termination of employment with the division; except that, if such personnel accept a promotion, a voluntary demotion, or a transfer for purposes of a change of duties performed for the benefit of the division, such personnel shall become exempt from the state personnel system. Nothing in this subsection (3) shall prohibit personnel hired prior to July 1, 2002, from continuing membership in the public employees' retirement association pursuant to the provisions of article 51 of title 24, C.R.S., with all attendant rights and duties.

**Source: L. 79:** Entire article added, p. 808, § 1, effective July 1. **L. 84:** Entire section amended, p. 618, § 4, effective April 10. **L. 2002:** Entire section amended, p. 961, § 1, effective June 1. **L. 2006:** (1) amended, p. 511, § 1, effective July 1.

**23-3.1-103.5. Enterprise status of division.** (1) (a) The division shall constitute an enterprise for the purposes of section 20 of article X of the state constitution so long as the division retains the authority to issue revenue bonds and the division receives less than ten percent of its total annual revenues in grants from all Colorado state and local governments combined.

(b) and (c) (Deleted by amendment, L. 2006, p. 511, § 2, effective July 1, 2006.)

(d) Repealed.

(2) (a) As used in this section, “grant” means any direct cash subsidy or other direct contribution of money from the state or any local government in Colorado which is not required to be repaid.

(b) “Grant” does not include:

(I) Any indirect benefit conferred upon the division from the state or any local government in Colorado;

(II) Any revenues resulting from rates, fees, assessments, or other charges imposed by the division for the provision of goods or services by the division;

(III) Any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by the division.

(3) Repealed.

**Source: L. 93:** Entire section added, p. 1827, § 11, effective June 6. **L. 94:** (1) amended, p. 100, § 3, effective March 18. **L. 95:** (3) added, p. 717, § 1, effective May 23. **L. 2000:** (3) repealed, p. 29, § 1, effective March 10. **L. 2006:** (1)(a), (1)(b), and (1)(c) amended, p. 511, § 2, effective July 1.

**Editor’s note:** Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 1994. (See L. 94, p. 100.)

**23-3.1-104. Duties and powers of division.** (1) The division shall:

(a) Promulgate rules and regulations for administration of the Colorado student loan program established by this article, including but not limited to the following:

(I) Criteria for eligibility of borrowers, lenders, and institutions of higher education to participate in the network;

(II) Procedures to be followed by participating borrowers, lenders, and institutions of higher education;

(III) With the advice of the authority created by part 2 of this article, procedures and criteria by which the powers of the division pursuant to section 23-3.1-104.5 may be exercised;

(b) Approve or arrange for approval of loan applications for guarantee;

(c) Establish the level of the insurance premium charged to borrowers of guaranteed student loans, not to exceed the amount permitted by federal law;

(d) Assist lenders in seeking payment from delinquent borrowers;

(e) Purchase defaulted guaranteed student loans promptly;

(f) Collect or provide for the collection of defaulted guaranteed student loans purchased from lenders;

(g) Repealed.

(h) Train lenders in the requirements of the network;

(i) Evaluate lender performance in the network;

(j) Train personnel of institutions of higher education in the requirements of the network;

(k) Evaluate the performance of institutions of higher education in the network;

(l) Educate borrowers in the requirements of the network;



(m) Communicate on a periodic basis with borrowers to inform them of the status of their loans;

(n) Bill the federal government for administrative allowances and reinsurance payments;

(o) Repealed.

(p) (I) At times prescribed by the department of revenue, but not less frequently than annually, certify to the department of revenue information regarding persons who owe a loan repayment to the division, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to section 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(III) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the division.

(q) (I) At least quarterly, certify to the controller information regarding persons who owe a loan repayment to the division.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the controller.

(III) Upon notification by the controller to the state agency of amounts deposited with the state treasurer pursuant to section 24-30-202.4 (3.5) (a) (V), C.R.S., the state treasurer shall disburse such amounts to the division.

(2) The division may:

(a) Permit lenders to require cosigners;

(b) Provide incentives to lenders, which may include but are not limited to:

(I) Billing the federal government for interest payments owed to lenders;

(II) Preparing federal reports required of lenders;

(III) Guaranteeing, originating, servicing, making, and purchasing consolidation loans and refinancing loans pursuant to the provisions of section 23-3.1-112;

(IV) Verifying in-school status of students;

(c) Employ legal counsel;

(d) Garnish wages of defaulted borrowers;

(e) Enter into contracts and guarantee agreements with approved lenders, approved institutions of higher education, state and federal governmental agencies, and corporations, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers. Contracts with corporations to provide services shall clearly specify the role and duties of such corporations and may be entered into without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S., without regard to the provisions of section 17-24-111, C.R.S., and without regard to the provisions of part 11 of article 30 of title 24, C.R.S.

(f) Make, originate, disburse, service, or guarantee student loans;

(g) Establish the level of insurance premium or interest rate charged to the borrowers of student loans;

(h) Purchase defaulted student loans;

(i) Collect or provide for the collection of defaulted student loans purchased from lenders;

(j) and (k) Repealed.

(l) Advise the commission and the department on matters pertaining to student loans;

(m) Make and enter into contracts and all other instruments necessary or convenient for the exercise of its powers and functions pursuant to this part 1 without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S., without regard to the provisions of section 17-24-111, C.R.S., and without regard to the provisions of part 11 of article 30 of title 24, C.R.S.;

(n) Do all things necessary or convenient to carry out the purposes of this part 1;

(o) Repealed.

(p) Require a lender or institution of higher education to take reasonable corrective action to remedy a violation of applicable laws, regulations, special arrangements, agreements, or limitations, including but not limited to requiring such lender or institution to make payments to the secretary of the United States department of education, the division, or their designated recipients of any funds that the lender or institution improperly received, withheld, or disbursed or caused to be disbursed;

(q) Establish an investigations unit, which shall have the following powers and duties:

(I) To conduct investigations, as it deems necessary, to determine whether applications and other data submitted to the division contain any misrepresentations or false statements made for the purpose of cheating or defrauding and to locate defaulted borrowers;

(II) To investigate, as it deems necessary, alleged violations of any state or federal criminal statute related to fraud committed by any person who has obtained or attempted to obtain or who aids, assists, or abets in obtaining or attempting to obtain student loans or loan guarantees or other money from the division;

(III) To work in conjunction with the appropriate law enforcement and prosecuting authorities in the investigation and prosecution of cases where evidence of criminal activity exists;

(IV) To request and obtain information, assistance, and data from any department, division, board, bureau, commission, or other agency of the local, state, or federal government, including, but not limited to, arrest and conviction records available from any law enforcement agency or crime information center pursuant to the provisions of part 3 of article 72 of title 24, C.R.S.

(3) On or after July 1, 1979, all rules and regulations promulgated by the division pursuant to the provisions of paragraph (a) of subsection (1) of this section shall be subject to sections 24-4-103 (8) and 24-4-108, C.R.S. Any guarantee made pursuant to any rule or regulation shall continue to be governed by the rule or regulation in effect at the time when the guarantee was made, whether or not such rule or regulation has been continued.

**Source:** **L. 79:** Entire article added, p. 808, § 1, effective July 1. **L. 80:** (3) amended, p. 787, § 20, effective June 5. **L. 81:** (1)(a)(I), (1)(a)(II), (1)(c), (1)(l), (1)(m), (1)(o), and (2)(e) amended, p. 1087, § 3, effective May 29. **L. 84:** (1)(p) added and (2)(d) amended, p. 1008, §§ 1, 2, effective March 29; (2)(f) to (2)(o) added, p. 619, 1008, §§ 5, 2, 6, effective April 10. **L. 85:** (2)(p) added, p. 773, § 4, effective April 5; (2)(q) added, p. 776, § 1, effective April 30. **L. 87:** (2)(b)(III) amended, p. 845, § 1, effective February 26. **L. 97:** (1)(q) added, p. 941, § 4, effective July 1. **L. 2002:** (2)(e) and (2)(m) amended, p. 962, § 2, effective June 1; (1)(p)(I) amended, p. 100, § 2, effective August 7. **L. 2004:** IP(1)(a), (1)(a)(I), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), (2)(j), and (2)(o) amended, pp. 578, 559, §§ 38, 2, effective July 1. **L. 2006:** IP(1)(a) amended, p. 512, § 5, effective July 1. **L. 2010:** (1)(g), (1)(o), (2)(j), (2)(k), and (2)(o) repealed, (HB 10-1428), ch. 390, p. 1829, § 4, effective June 9.

**23-3.1-104.5. Additional powers of division.** (1) The division is hereby authorized to make, originate, disburse, or service student loans directly to residents. "Resident" for the purpose of this section means any person attending an institution of higher education in Colorado, or any person attending an institution of higher education outside Colorado who would qualify for Colorado in-state tuition status under article 7 of this title. In order to obtain funds to make, originate, disburse, or service such student loans, the division is authorized to borrow or enter into other types of agreements with any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal government agency for the advancement of funds for such purposes, so long as such student loans are insured against default.

(1.5) Repealed.

(2) Any agreement made by the division to repay funds borrowed from any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal government agency shall not constitute or become an indebtedness, a debt, or a liability of the state or constitute the giving, pledging, or loaning of the full faith and credit of the state. Repayment of such borrowed funds shall be made solely from funds received



from proceeds or earnings derived from the funds borrowed, from borrowers and insurers, or from federal payments, and the state shall have no liability with respect to such an agreement.

(3) The division is hereby authorized to issue revenue bonds after approval by both houses of the general assembly either by bill or by joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution.

**Source:** **L. 81:** Entire section added, p. 1088, § 4, effective May 29. **L. 84:** Entire section amended p. 619, § 7, effective April 10. **L. 85:** (1) R&RE, (1.5) repealed, and (2) amended, pp. 774, 775, §§ 5, 10, 6, effective April 5. **L. 93:** (3) added, p. 1827, § 12, effective June 6. **L. 2006:** (3) amended, p. 513, § 6, effective July 1.

**23-3.1-104.7. Restructuring plan - legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Due to changes in federal law, the department shall no longer be involved in student loans that are guaranteed by the federal government;

(b) There are a number of employees of the division that are involved in originating, disbursing, servicing, and administering student loans that are guaranteed by the federal government; and

(c) It is in the best interest of the state for the department to prepare and submit to the general assembly a restructuring plan to deal with the changes in administering student loans.

(2) On or before January 1, 2011, the department shall prepare and submit to the education committees of the senate and the house of representatives, or any successor committees, a restructuring plan to deal with changes in administering student loans. The plan shall address, but need not be limited to, the following issues:

(a) Any ongoing or future role for the Colorado student obligation bond authority;

(b) Whether the division should continue to originate, disburse, service, guarantee, and administer student loans;

(c) If the division does not continue administering student loans, the entity that should be responsible for such administration and the authority that entity may need;

(d) The number of employees necessary to administer student loans; and

(e) The employment of persons who formerly were responsible for administering student loans guaranteed by the federal government.

**Source:** **L. 2010:** Entire section added, (HB 10-1428), ch. 390, p. 1827, § 1, effective June 9.

**23-3.1-105. Advisory committee established - duties - membership - repeal. (Repealed)**

**Source:** **L. 79:** Entire article added, p. 810, § 1, effective July 1. **L. 84:** IP(1) amended, p. 620, § 8, effective April 10. **L. 86:** (3) added, p. 413, § 21, effective March 21. **L. 91:** (2) and (3) amended, p. 695, § 8, effective April 20. **L. 2004:** Entire section R&RE, p. 372, § 1, effective April 8. **L. 2006:** Entire section repealed, p. 512, § 3, effective July 1.

**23-3.1-106. Student loan program established.** (1) (a) There is hereby established a student loan program, to be administered by the division, which shall guarantee, in accordance with applicable provisions of federal law, a percentage of the unpaid principal and interest on all guaranteed student loans approved by the division. No guaranteed student loan shall be guaranteed to a percentage or an amount in excess of the limits authorized by federal law, nor shall interest charged on any guaranteed student loan exceed the interest rate permitted by federal law, but each guaranteed student loan may carry a special loan insurance premium which shall not exceed that permitted by federal law. No guaranteed student loan shall be guaranteed or made to any borrower which would not be eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act

of 1965", as amended. A loan guarantee made by the division in good faith for a student loan which has been disbursed and which does not meet the requirements of this article, except for cases of misfeasance by the holder, shall not be invalidated.

(b) On and after July 1, 2006, the student loan program established pursuant to paragraph (a) of this subsection (1) shall be formally and legally known as and designated the Colorado student loan program. On and after July 1, 2006, whenever the student loan program or the guaranteed student loan program is referred to or designated by a contract or other document, such reference or designation shall be deemed to apply to the Colorado student loan program. All contracts entered into by or on behalf of the student loan program or the guaranteed student loan program prior to July 1, 2006, are hereby validated as obligations of the Colorado student loan program.

(2) It is the intent of the general assembly that the Colorado student loan program established by subsection (1) of this section shall operate in such a manner that its costs can be fully met by user fees and federal payments.

(3) (a) Loan guarantees made by the division shall not constitute or become an indebtedness, a debt, or a liability of the state, nor shall such loan guarantees constitute the giving, pledging, or loaning of the full faith and credit of the state. The state shall have no liability with respect to loan guarantees which shall be payable solely from the user fees and federal payments provided for in section 23-3.1-107.

(b) The loan guarantees shall not obligate the state, directly, indirectly, or contingently, nor empower the state or the general assembly to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and any such appropriation, levy, or collection is prohibited. Nothing in this part 1 shall be construed to authorize the division to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the division to levy or collect any form of taxes or assessments.

(c) The state shall not be liable in any event for the purchase of defaulted loans made, originated, disbursed, serviced, or guaranteed by the division or for the performance of any pledge, obligation, or agreement of any kind in connection with such loans which may be undertaken by the division except from the user fees and federal payments provided for in section 23-3.1-107. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state or a charge upon the general credit or taxing power of the state.

**Source:** **L. 79:** Entire article added, p. 811, § 1, effective July 1. **L. 81:** (3)(c) amended, p. 1088, § 5, effective May 29. **L. 84:** (1), (2), and (3)(c) amended, p. 620, § 9, effective April 10. **L. 85:** (1) amended, p. 774, § 7, effective April 5. **L. 94:** (1) amended, p. 453, § 1, effective March 29. **L. 2004:** (1) and (2) amended, p. 559, § 3, effective July 1. **L. 2006:** (1)(b) and (2) amended, p. 513, § 7, effective July 1.

**23-3.1-106.5. Special funds.** (1) The division may create a special fund into which any funds borrowed from any person, corporation, financial institution, state or federal authority, political subdivision, or state or federal agency pursuant to the provisions of section 23-3.1-104.5 (1) may be deposited.

(1.5) Repealed.

(2) All moneys deposited or paid into any special fund established by this section shall be continuously available and are hereby appropriated to the division to be expended in accordance with the provisions of this article. Any income from the investment of this special fund shall be deposited in such fund.

**Source:** **L. 81:** Entire section amended, p. 1089, § 6, effective May 29. **L. 84:** Entire section amended, p. 621, § 10, effective April 10. **L. 85:** (1) amended and (1.5) repealed, p. 775, §§ 8, 10, effective April 5.

**23-3.1-107. Student loan guarantee fund - created.** (1) (a) There is hereby created in the state treasury a fund to be known as the student loan guarantee fund that shall contain:



(I) A reserve account for guaranteed student loans that is established to fulfill the functions of the federal student loan reserve fund established by section 422A of the federal "Higher Education Act of 1965", as amended;

(II) An operating account that is established to fulfill the functions of the agency operating fund established by section 422B of the federal "Higher Education Act of 1965", as amended;

(III) A loan servicing account; and

(IV) Such other accounts as the division may require.

(b) The reserve account shall be used only for those purposes permitted by section 422A of the federal "Higher Education Act of 1965", as amended. All moneys required to be deposited by the division in the federal student loan reserve fund created by said act shall be deposited in the reserve account. The division shall maintain at all times a minimum reserve requirement that is equal to, and calculated in the same manner as, that which is required for the federal student loan reserve fund established by said act. Such minimum reserve requirement may be maintained in cash in such account or in federal reinsurance receivables held by the division.

(c) The operating account shall be used only for those purposes permitted by section 422B of the federal "Higher Education Act of 1965", as amended. All moneys required to be deposited by the division in the agency operating fund created by said act shall be deposited in the operating account.

(d) The loan servicing account shall be used for the deposit of revenues generated by the division's loan servicing activities and for the payment of expenses related to those activities. Until such time as the division has reached agreement with the federal department of education as to the monetary amount of any federal interest in the loan servicing account, and has made arrangements to satisfy that interest, moneys in the loan servicing account shall be considered the property of the United States. After any federal interest in the loan servicing account has been satisfied pursuant to the agreement, all revenues remaining in the loan servicing account, after payment of expenses attributable to the account, may be transferred to either the operating account or the reserve account for such uses as are permitted for those accounts.

(e) Other income earned or received by the division that is not required to be deposited in the reserve account or the loan servicing account may be deposited in the operating account, which shall be used to pay staff compensation and other expenses of the division.

(f) Repealed.

(2) All moneys deposited or paid into the student loan guarantee fund, including any interest earned from the investment of this fund and income earned or received by the division, shall be continuously available and are hereby appropriated to the division to be expended in accordance with the provisions of this article. Any income or interest earned from the investment of this fund shall be credited to the student loan guarantee fund. Such investment income or interest, together with any other income earned or received by the division, shall be apportioned to each account as required by applicable law and may be used only for the purposes permitted thereby.

**Source:** L. 79: Entire article added, p. 811, § 1, effective July 1. L. 84: Entire section R&RE, p. 621, § 11, effective April 10. L. 85: (1)(b) amended, p. 775, § 9, effective April 5. L. 91: (1)(b) amended, p. 590, § 1, effective March 28. L. 2001: (1) R&RE and (2) amended, pp. 165, 166, §§ 1, 2, effective March 28. L. 2004: (1)(f) repealed, p. 202, § 18, effective August 4.

**23-3.1-108. Age qualification.** Any person otherwise qualifying for a student loan shall not be disqualified to receive a student loan under the Colorado student loan program by reason of being under the age of eighteen years. For the purpose of applying for, receiving, and repaying a student loan, any person shall be deemed to have full legal capacity to act and shall have all the rights, powers, privileges, and obligations of a person of legal age with respect thereto.

**Source:** **L. 79:** Entire article added, p. 812, § 1, effective July 1. **L. 84:** Entire section amended, p. 622, § 12, effective April 10. **L. 2004:** Entire section amended, p. 578, § 39, effective July 1. **L. 2006:** Entire section amended, p. 513, § 8, effective July 1.

**23-3.1-109. Subject to audit.** The Colorado student loan program shall be audited annually by the state auditor.

**Source:** **L. 79:** Entire article added, p. 812, § 1, effective July 1. **L. 81:** Entire section amended, p. 341, § 4, effective March 27. **L. 84:** Entire section amended, p. 622, § 13, effective April 10. **L. 96:** Entire section amended, p. 1238, § 83, effective August 7. **L. 99:** Entire section amended, p. 849, § 3, effective May 24. **L. 2004:** Entire section amended, p. 578, § 40, effective July 1. **L. 2006:** Entire section amended, p. 513, § 9, effective July 1.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-3.1-110. Designation as sole state agency.** The division is the agency authorized to enter into contracts concerning the programs established by Title IV, Part B of the federal "Higher Education Act of 1965", 20 U.S.C. 1071, as amended. To the extent any fiscal policies required by the federal "Higher Education Act of 1965", 20 U.S.C. 1071, as amended, are in conflict with state fiscal policies, the division shall comply with the required federal policies.

**Source:** **L. 79:** Entire article added, p. 812, § 1, effective July 1. **L. 2004:** Entire section amended, p. 578, § 37, effective July 1.

**23-3.1-111. Authority of division to enter into agreements to provide administrative and guarantee services.** (1) The division is hereby authorized to enter into contracts or other agreements or both contracts and other agreements with private or public entities to make, originate, disburse, or service guaranteed student loans, educational loans, and student loans. Such authorization includes but shall not be limited to the power to enter into agreements with collegeinvest, established by part 2 of this article, to make, originate, disburse, or service "institutional loans" and "student obligations" as those terms are defined in section 23-3.1-202, whether or not such "institutional loans" and "student obligations" are eligible for federal reinsurance as authorized by Title IV, Part B of the federal "Higher Education Act of 1965", as amended.

(2) The division may enter into contracts or other agreements or both contracts and other agreements with private or public entities to guarantee or reinsure student loans or educational loans which may include but not be limited to guaranteeing or reinsuring the "institutional loans" or "student obligations" as those terms are defined in section 23-3.1-202.

(3) No guarantee or reinsurance agreement made by the division pursuant to subsection (2) of this section shall constitute or become an indebtedness, a debt, or a liability of the state, nor shall such loan guarantee constitute the giving, pledging, or loaning of the full faith and credit of the state.

(4) All income and interest thereon earned pursuant to the exercise of the power established in subsections (1) and (2) of this section are continuously available and are hereby appropriated to the division and may be used to pay the operating expenses thereof, or a portion of such income or interest may be deposited into any applicable reserve or guarantee account.

**Source:** **L. 84:** Entire section added, p. 622, § 14, effective April 10. **L. 2004:** (1) and (2) amended, p. 560, § 4, effective July 1.



**23-3.1-112. Authority and power of the division to guarantee, originate, service, make, and purchase consolidation loans and refinancing loans.** (1) Notwithstanding any provisions or definitions contained in this article to the contrary, the division is hereby authorized to guarantee, originate, service, make, and purchase consolidation loans and refinancing loans for all persons eligible for the consolidation and refinancing of student loans under Part B of Title IV of the federal "Higher Education Act of 1965", as amended. For the purposes of this section, "student loans" means, notwithstanding any provisions of this article to the contrary, those loans eligible for consolidation and refinancing under the federal provisions of Part B of Title IV of the "Higher Education Act of 1965", as amended.

(2) The powers and duties of the division specified in section 23-3.1-104 shall also pertain to the authority of the division with respect to consolidation loans and refinancing loans under this section.

**Source: L. 87:** Entire section added, p. 845, § 2, effective February 26.

## PART 2

### STUDENT OBLIGATIONS AND INSTITUTIONAL LOANS

**23-3.1-201. Legislative declaration.** The general assembly hereby declares that the availability of improved access to and choice of higher education opportunities in this state will benefit the residents of the state and that the establishment of a prepaid postsecondary education expense program will assist residents in meeting the expenses incurred in availing themselves of higher education opportunities. It is the intent of the general assembly in enacting this part 2 to create collegeinvest, which shall be a division within the department of higher education and which authority shall make or purchase student obligations and shall develop and administer a prepaid postsecondary education expense program. This part 2 shall be liberally construed to accomplish the intentions expressed in this section.

**Source: L. 79:** Entire article added, p. 812, § 1, effective July 1. **L. 84:** Entire section amended, p. 623, § 15, effective April 10. **L. 96:** Entire section amended, p. 421, § 1, effective April 22. **L. 2000:** Entire section amended, p. 1268, § 1, effective May 26. **L. 2004:** Entire section amended, p. 560, § 5, effective July 1. **L. 2010:** Entire section amended, (HB 10-1428), ch. 390, p. 1830, § 5, effective June 9.

**23-3.1-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Advance payment contract" means a contract entered into by the authority, as defined in subsection (2) of this section, and a purchaser in connection with the prepaid postsecondary education expense program as authorized in section 23-3.1-206.7.

(2) "Authority" means collegeinvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(3) "Board" means the board of directors of the authority.

(4) "Bond" means any bond, note, debenture, interim certificate, or other evidence of indebtedness authorized to be issued by the authority pursuant to this part 2, including refunding bonds.

(5) "Bond resolution" means the resolution authorizing the issuance of or providing the terms and conditions related to bonds issued pursuant to this part 2 and includes any trust agreement or trust indenture providing terms and conditions for such bonds.

(6) "Collegeinvest" means:

(a) The Colorado student obligation bond authority, as it existed prior to May 26, 2000, as an independent public body politic in accordance with section 23-3.1-203, as it existed prior to said date;

(b) On and after May 26, 2000, but prior to July 1, 2004, the Colorado student obligation bond authority transferred to the department and existing as a division of the department pursuant to section 23-3.1-203, as it existed prior to said date;

(c) On and after July 1, 2004, the successor to the Colorado student obligation bond authority existing as a division of the department pursuant to section 23-3.1-203, but designated and formally and legally known, as of July 1, 2004, as collegeinvest.

(7) "Contract price" means the aggregate of all payment amounts to be remitted during the contract term by purchasers under the outstanding advance payment contracts as provided on the respective dates of execution thereof.

(8) "Director" means the executive officer of collegeinvest, appointed in accordance with section 23-3.1-203.

(9) "Excess amount" means the assets in the Colorado prepaid postsecondary education expense trust fund that the actuarial calculation under section 23-3.1-206.7 (5) demonstrates are in excess of the assets required to pay the obligations of the prepaid expense trust fund with a likelihood of such sufficiency of at least ninety-five percent.

(10) "Executive director" means the executive director of the department of higher education.

(11) "Executive officer" means the director of collegeinvest, transferred to the department and existing as a division of the department pursuant to section 23-3.1-203.

(12) "Expected tuition units" means the total tuition units paid for and not distributed or refunded together with the portion of tuition units available for purchase under outstanding advance payment contracts that, based on an actuarial projection, are expected to be paid for and become obligations of the Colorado prepaid postsecondary education expense trust fund.

(13) "Institutional loan" means a loan made by collegeinvest from bond proceeds, or other available moneys, to one or more institutions of higher education, to a nonprofit corporation acting on behalf of one or more institutions of higher education, to the division, or to purchasers, and made for the purpose of funding student obligations or payments to be made under advance payment contracts.

(14) "Investable assets" means cash and cash equivalents on deposit in the prepaid expense trust fund and investments of amounts deposited to the prepaid expense trust fund.

(15) "Prepaid expense program" means the Colorado prepaid postsecondary education expense program authorized in section 23-3.1-206.7.

(16) "Prepaid expense trust fund" means the Colorado prepaid postsecondary education expense trust fund established by the authority in accordance with section 23-3.1-206.7 (5) and transferred on May 26, 2000, pursuant to section 23-3.1-206.7 (5).

(17) "Purchaser" means a person who makes or is obligated to make a payment or payments in accordance with an advance payment contract on behalf of a qualified beneficiary.

(18) "Qualified beneficiary" means a person identified in an advance payment contract as the recipient of moneys or benefits to be disbursed in accordance with an advance payment contract.

(19) "State institution" shall have the same meaning as provided in section 23-3.3-101 (4).

(20) "Student" means a student who, under rules promulgated by the division, is enrolled or accepted for enrollment at an institution of higher education and who is making suitable progress in his or her education toward obtaining a degree or other appropriate certification in accordance with standards promulgated by the division.

(21) "Student obligations" means student obligation notes and other debt obligations evidencing loans made for higher education purposes, or to any person for the purposes of consolidating or refinancing loans for higher education purposes, which are either guaranteed student loans, educational loans, or loans eligible for consolidation or refinancing under Part B of Title IV of the federal "Higher Education Act of 1965", as amended, which the authority may make, acquire, buy, sell, or endorse pursuant to this part 2, or which one or more institutions of higher education, or a nonprofit corporation acting on behalf of one or more institutions of higher education, or the division may make from or in anticipation of an institutional loan and which include a direct or indirect interest, in whole or part, of the notes or obligations.



(22) “Tuition” means the quarter, semester, or term charges imposed by an institution of higher education and such fees or charges as may be included in the advance payment contract at the option of the authority.

**Source:** **L. 79:** Entire article added, p. 812, § 1, effective July 1. **L. 81:** (7) amended, p. 1090, § 1, effective May 29. **L. 84:** (1.5) and (4.5) added and (7) amended, p. 623, § 16, effective April 10. **L. 87:** (7) amended, p. 846, § 3, effective February 26. **L. 96:** (1) and (1.5) amended and (1.2), (4.2), (4.4), (5.1), (5.2), (5.3), (5.5), (5.6), (5.7), (5.8), (5.9), and (8) added, p. 421, § 2, effective April 22. **L. 2000:** Entire section amended, p. 1268, § 2, effective May 26. **L. 2004:** Entire section R&RE, p. 560, § 6, effective July 1.

**23-3.1-203. Authority - creation - membership - transfer of personnel.** (1) Effective May 26, 2000, the authority shall be transferred to the department of higher education, and shall become a division thereof. Except as otherwise provided in this article, on and after May 26, 2000, the authority shall exercise its powers, duties, and functions under the department of higher education as if it were transferred by a **type 2** transfer under the provisions of the “Administrative Organization Act of 1968”, article 1 of title 24, C.R.S. The director shall be appointed by the executive director, shall function as the executive officer of the authority, and shall also be director of the student loan division. The director, with the approval of the executive director, shall employ such professional and clerical personnel as may be deemed necessary to carry out the duties and functions of the authority. Such personnel shall receive compensation for their services as determined by the director. The director and all personnel of the authority are declared to hold educational offices and to be exempt from the state personnel system.

(2) (a) Effective May 26, 2000, the board of directors of the authority, as it existed prior to May 26, 2000, shall be transferred with the authority to the department of higher education. The board shall continue to consist of nine members who shall continue to be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. The term of office of each member shall be four years; except that, of the appointments made on or after May 26, 2000, and prior to July 1, 2000, three members shall serve for terms of two, three, and four years, respectively. Each member shall serve until his or her successor has been appointed by the governor and qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session, whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(b) Any member of the board appointed by the governor may be removed by the governor.

(3) (a) On and after July 1, 2004, the division of the department of higher education known prior to said date as the Colorado student obligation bond authority shall be formally and legally known as and designated collegeinvest.

(b) On and after July 1, 2004, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by a contract or other document, such reference or designation shall be deemed to apply to collegeinvest as a division of the department of higher education pursuant to this section. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to July 1, 2004, are hereby validated as obligations of collegeinvest.

**Source:** **L. 79:** Entire article added, p. 813, § 1, effective July 1. **L. 84:** (2) R&RE, p. 624, § 17, effective April 10. **L. 87:** (2)(a) amended, p. 906, § 13, effective June 15. **L. 2000:** Entire section amended, p. 1271, § 3, effective May 26. **L. 2004:** (1) amended and (3) added, p. 563, § 7, effective July 1. **L. 2006:** (1) amended, p. 513, § 10, effective July 1.

**Cross references:** (1) For limitation on issuance of private activity bonds, see part 17 of article 32 of title 24.

(2) For the provisions that designate the Colorado student obligation bond authority as a “special purpose authority” for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

**23-3.1-204. Organizational meeting - chairperson - conflict of interest.** (1) On or before July 15, 2000, a member of the board, designated by the governor, shall call and convene the initial organizational meeting of the board after transfer of the authority to the department and shall serve as its chairperson pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the delegation of certain powers and duties and such other matters as the authority deems proper. At such meeting, and annually thereafter, the board shall elect one of its members as chairperson and one as vice-chairperson.

(2) The director or any other person designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and the minute books or journal of the board. Said director or other person may cause copies to be made of all minutes and other records and documents of the board and may give certificates to the effect that such copies are true copies and all persons dealing with the authority may rely on such certificates.

(3) The board may delegate to one or more of its members or to its director such powers and duties as it may deem proper and to its director or any other person designated by the board, the power to fix the interest rates of any particular issue, subject to such limitations as shall be prescribed by the board.

(4) (Deleted by amendment, L. 2004, p. 563, § 8, effective July 1, 2004.)

(5) Any member of the board shall disqualify himself or herself from voting on any issue in which he or she has a conflict of interest unless such member has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S.

**Source:** L. 79: Entire article added, p. 813, § 1, effective July 1. L. 84: (3) amended and (5) R&RE, pp. 624, 625, §§ 18, 19, effective April 10. L. 2000: Entire section amended, p. 1272, § 4, effective May 26. L. 2004: (3) and (4) amended, p. 563, § 8, effective July 1.

**23-3.1-205. Meetings of board - quorum - expenses.** (1) Five members of the board shall constitute a quorum. Action may be taken by the board upon the affirmative vote of a majority of the members present at any meeting at which a quorum is present. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Pursuant to part 4 of article 6 of title 24, C.R.S., each meeting of the board shall be open to the public. Notice of meetings shall be as provided in accordance with applicable law. One or more members of the board may participate in any board meeting and may vote on resolutions through the usage of telecommunications devices, including, but not limited to, the usage of a conference telephone or similar communications equipment. Such participation through telecommunications devices shall constitute presence in person at such meeting. Such use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for expenses shall be paid from funds of the authority.

**Source:** L. 79: Entire article added, p. 814, § 1, effective July 1. L. 83: (2) amended, p. 785, § 1, effective April 29. L. 84: (1) amended, p. 625, § 20, effective April 10. L. 91:



(2) amended, p. 901, § 2, effective April 19; (2) amended, p. 820, § 4, effective June 1. **L. 2000:** Entire section amended, p. 1273, § 5, effective May 26. **L. 2004:** (1) amended, p. 564, § 9, effective July 1.

**Editor's note:** Amendments to subsection (2) in Senate Bill 91-33 and House Bill 91-1119 were harmonized.

**23-3.1-205.3. Transfer of property.** (1) On May 26, 2000, all items of property, real and personal, including office furniture and fixtures, books, documents, funds and accounts, and records of the authority shall be transferred with the authority to the department of higher education, and shall remain the property of the authority.

(2) Amounts in the existing administrative fund of the authority transferred on May 26, 2000, shall be deposited as provided in section 23-3.1-205.4. Funds of the authority held by a corporate trustee pursuant to a trust indenture shall continue to be held and invested in accordance with such trust indenture. The prepaid tuition expense fund shall be transferred to be held by the state treasury and shall be administered in accordance with the provisions of this part 2.

(3) On and after May 26, 2000, whenever the Colorado student obligation bond authority or the board of directors of the Colorado student obligation bond authority is referred to or designated by any contract or other document or in other state statutory provisions, such reference or designation shall be deemed to apply to the authority as a division of the department of higher education pursuant to section 23-3.1-203. All contracts entered into by or on behalf of the Colorado student obligation bond authority or its board prior to May 26, 2000, are hereby validated, with the authority in the department of higher education succeeding to all rights and assuming all obligations under such contracts.

(4) No suit, action, or other judicial or administrative proceeding lawfully commenced prior to May 26, 2000, or that could have been commenced prior to said date, by or against the Colorado student obligation bond authority, its board of directors, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties shall abate by reason of the transfer of the authority and its board to the department of higher education.

**Source:** **L. 2000:** Entire section added, p. 1274, § 6, effective May 26. **L. 2004:** (1) and (3) amended, p. 564, § 10, effective July 1.

**23-3.1-205.4. Collegeinvest fund - creation - control - use.** (1) (a) There is hereby created in the state treasury the Colorado student obligation bond authority fund, to be known and referred to on and after July 1, 2004, as the collegeinvest fund, which shall be under the control of the authority in accordance with the provisions of this part 2 and part 3 of this article. The moneys in the collegeinvest fund shall be invested by the state treasurer. Except as otherwise allowed by section 24-36-103 (2), C.R.S., and except for amounts received in connection with the prepaid expense program and the program in part 3 of this article, all moneys received or acquired by the authority, whether by appropriation, grant, contract, gift, sale or lease of surplus real or personal property, or any other means, whose disposition is not otherwise provided for by law or by a trust indenture, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund, including moneys received pursuant to sections 23-3.1-206 (1) (k) and 23-3.1-304 (1) (h). Except as provided in paragraph (b) of this subsection (1), the moneys in the fund are hereby continuously appropriated to the authority and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if the authority sells, transfers, or enters into a contract with another entity concerning all or a substantial portion of the authority's power to make, originate, disburse, or service loans, the proceeds of the sale, transfer, or contract shall not be used by the authority without further appropriation by the general assembly.

(c) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, if the authority or any other division of the department sells, transfers, or enters into a contract with another entity concerning all or any portion of the authority's or division's interest in any student loans or student obligations, the authority or the division shall deposit the net proceeds of the sale, transfer, or contract as follows:

(I) Up to five million dollars shall remain in the reserve account in the collegeinvest fund, which account is hereby created, and may be used: To fund the repurchase of student loans sold by the authority if a guarantee agency refuses to honor a claim filed with respect to any such loans on account of an event that occurred prior to the sale; and to pay all liabilities, costs, and expenses with respect to the authority's programs to undertake forgiveness of indebtedness under such student loans sold by the authority. Any moneys remaining in the reserve account as of January 1, 2011, shall be transferred to the financial need scholarship fund created in section 23-3.1-206.2.

(II) After the retention of the amount required in subparagraph (I) of this paragraph (c), up to five million dollars of the remaining proceeds shall remain in the transition account in the collegeinvest fund, which account is hereby created to pay costs and expenses associated with the transition and wind-down of the authority's student loan program. Any expenditure from the transition account in excess of one hundred thousand dollars shall require the approval of the executive director. Any moneys remaining in the transition account as of January 1, 2011, shall be transferred to the financial need scholarship fund created in section 23-3.1-206.2.

(III) After the retention of the amounts required in subparagraphs (I) and (II) of this paragraph (c), up to fifteen million dollars of the remaining proceeds shall be transferred to the financial need scholarship fund created in section 23-3.1-206.2 to increase the availability of financial need scholarships.

(III.5) After the retention of the amounts required by subparagraphs (I) and (II) of this paragraph (c) and the transfer required by subparagraph (III) of this paragraph (c), up to one hundred thousand dollars of the remaining proceeds shall be transferred to the job retraining cash fund created pursuant to section 23-3.1-310.

(IV) After the retention of the amounts required by subparagraphs (I) and (II) of this paragraph (c) and the transfers required by subparagraphs (III) and (III.5) of this paragraph (c), any remaining amount of the proceeds shall be transferred to the financial need scholarship fund created in section 23-3.1-206.2 and may reduce the need for general fund appropriations in the same amount to the department for need-based grants.

(2) The moneys in the collegeinvest fund may be used by the authority for the payment of salaries and operating and administrative expenses of the authority and for the payment of any other expenses incurred by the authority in carrying out its statutory powers and duties.

(3) The moneys in the collegeinvest fund that are not needed for immediate use by the authority may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The authority shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of such amount.

(4) The authority may request authorization to transfer or loan moneys from the collegeinvest fund to the prepaid expense trust fund, created in section 23-3.1-206.7, or to any fund created for the implementation of the college savings program, established pursuant to part 3 of this article, as necessary to carry out the authority's powers and duties under this part 2 and part 3 of this article. The authority shall submit any such transfer or loan request to the executive director for approval. The authority shall not transfer or loan moneys from the collegeinvest fund to the prepaid expense trust fund or to any fund created for the implementation of the college savings program unless such transfer or loan is approved by the executive director.

**Source:** **L. 2000:** Entire section added, p. 1274, § 6, effective May 26. **L. 2003:** (4) added, p. 552, § 1, effective August 6. **L. 2004:** Entire section amended, p. 564, § 11, effective July 1. **L. 2006:** (1) amended, p. 514, § 13, effective July 1. **L. 2008:** (2)



amended, p. 203, § 1, effective August 5. **L. 2010:** (1)(c) and (1)(c)(III.5) added and (1)(c)(IV) amended, (HB 10-1428), ch. 390, p. 1828, 1831, §§ 2, 10, effective June 9.

**23-3.1-205.5. Collegeinvest - enterprise status.** (1) Collegeinvest shall constitute an enterprise for the purposes of section 20 of article X of the state constitution, so long as collegeinvest retains the ability to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (1), collegeinvest shall not be subject to any provisions of section 20 of article X of the state constitution. Agreements between collegeinvest and the student loan division in the department of higher education for the guarantee of payment of student loans are not grants for purposes of the definition of enterprise under section 20 (2) (d) of article X of the state constitution.

(2) For purposes of part 2 of article 72 of title 24, C.R.S., the records of collegeinvest and the board shall be public records, as defined in section 24-72-202 (6), C.R.S., except to the extent otherwise specified by law, regardless of whether collegeinvest and the board constitute an enterprise pursuant to subsection (1) of this section.

**Source:** **L. 2000:** Entire section added, p. 1274, § 6, effective May 26. **L. 2004:** Entire section amended, p. 565, § 12, effective July 1.

**23-3.1-205.7. Department of higher education - executive director - powers and duties.** In addition to any other powers and duties specifically granted by law, the executive director shall have such powers and duties as are not otherwise granted to the authority in this part 2 and in part 3 of this article, and shall also have all powers and duties necessary to oversee the authority, including, but not limited to, its management and direction.

**Source:** **L. 2000:** Entire section added, p. 1274, § 6, effective May 26.

**23-3.1-206. General powers and duties of the authority.** (1) In addition to any other powers and duties specifically granted to the authority in this part 2, the authority has the following powers:

- (a) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)
- (b) To adopt and from time to time amend or repeal policies for the regulation of its affairs and the conduct of its business, consistent with the provisions of this part 2;
- (c) to (e) (Deleted by amendment, L. 2000, p. 1276 § 7, effective May 26, 2000.)
- (f) To borrow money and issue bonds, notes, bond anticipation notes, or other obligations and to fund or refund such obligations as provided in this part 2;
- (g) To engage the services of private consultants and legal counsel and to otherwise contract with providers to render professional and technical assistance, advice, and other services in carrying out the purposes of this part 2 and part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;
- (h) Repealed.
- (i) To purchase or participate in the purchase of student obligations;
- (j) To sell or participate in the sale of student obligations;
- (k) To collect and pay reasonable fees and charges in connection with making, purchasing, originating, disbursing, and servicing or causing to be made, purchased, originated, disbursed, or serviced student obligations or institutional loans by the authority, including payment to the division for services performed for the authority and pursuant to part 3 of this article without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.;
- (l) To procure insurance, guarantees, or other credit support with respect to all student obligations made or purchased or all institutional loans made by the authority;
- (m) To consent, whenever it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any student obligation to which the authority is

a party, but no such consent shall be made or given if its effect would be to obviate insurance coverage with respect to any student obligation;

(n) To make and execute contracts, including advance payment contracts with purchasers and all other instruments necessary or convenient for the exercise of its powers and functions under this part 2;

(o) To do all things necessary and convenient to carry out the purposes of this part 2 and of part 3 of this article including funding of grants, scholarships, and loan forgiveness;

(p) to (r) (Deleted by amendment, L. 2000, p. 1276, § 7, effective May 26, 2000.)

(s) To establish policies, procedures, and criteria to implement and administer the prepaid expense program;

(t) To assure that nothing shall cause the authority to exceed the limitations prescribed in section 23-3.1-205.5;

(u) (I) At times prescribed by the department of revenue, but not less frequently than annually, to certify to the department of revenue information regarding persons who owe a loan repayment to the division, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to 39-21-108 (3), C.R.S., or which has been reduced to judgment.

(II) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(III) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the division.

(v) To implement and administer, including marketing, the Colorado collegeinvest scholarship program established in section 23-3.1-206.9;

(w) To deposit moneys into the Colorado collegeinvest scholarship trust fund; to accept moneys appropriated to the fund by the general assembly; to accept gifts, grants, and donations from third parties for deposit into the fund; and to expend moneys from the fund for Colorado collegeinvest scholarships;

(x) To organize entities pursuant to title 7, C.R.S., and transfer funds to the entities for the purpose of investing the moneys in the Colorado collegeinvest scholarship trust fund and any other trusts and funds under the authority's control; and

(y) To develop and administer loan forgiveness programs.

(2) No actions taken by the authority pursuant to this section shall be interpreted to constitute or become an indebtedness, a debt, or a liability of the state, nor shall any actions taken by the authority be interpreted to constitute the giving, pledging, or loaning of the full faith and credit of the state.

**Source:** **L. 79:** Entire article added, p. 815, § 1, effective July 1. **L. 84:** (1)(h) to (1)(l) amended, p. 625, § 21, effective April 10. **L. 96:** (1)(g) and (1)(n) amended and (1)(p) to (1)(s) added, p. 423, § 3, effective April 22. **L. 2000:** Entire section amended, p. 1276, § 7, effective May 26. **L. 2002:** (1)(u) added, p. 101, § 5, effective August 7. **L. 2004:** (1)(h), (1)(k), and (1)(l) amended, p. 566, § 13, effective July 1. **L. 2005:** (1)(x) amended, p. 1017, § 13, effective June 2; (1)(t) amended and (1)(v), (1)(w), and (1)(x) added, p. 168, § 2, effective July 1. **L. 2008:** (1)(g), (1)(k), (1)(o), (1)(v), (1)(w), and (1)(x) amended and (1)(y) added, p. 203, § 2, effective August 5. **L. 2010:** (1)(o) amended, (HB 10-1428), ch. 390, p. 1830, § 7, effective June 9; (1)(h) repealed, (HB 10-1428), ch. 390, p. 1830, § 6, effective September 30. **L. 2011:** (1)(y) amended, (HB 11-1281), ch. 180, p. 689, § 13, effective May 19.

**23-3.1-206.2. Financial need scholarships and grants - fund.** (1) The authority and the department of higher education are authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of making scholarships or grants based upon financial need in addition to those funded pursuant to section 23-3.3-501; except that the authority or the department of higher education may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The authority and the department of higher education shall transmit all private



and public moneys received through gifts, grants, or donations pursuant to this section to the state treasurer, who shall credit the same to the financial need scholarship fund, which fund is hereby created and referred to in this section as the “fund”. In addition to gifts, grants, or donations, the fund shall consist of any moneys deposited in the fund pursuant to section 23-3.1-205.4 (1) (c) and any moneys appropriated to the fund by the general assembly. The moneys in the fund shall be continuously appropriated to the authority and the department of higher education for the direct and indirect costs associated with awarding scholarships or grants based upon financial need.

(2) The state treasurer may invest, as provided by law, any moneys in the fund not expended for the purpose of this section. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

**Source: L. 2010:** Entire section added, (HB 10-1428), ch. 390, p. 1829, § 3, effective June 9.

**23-3.1-206.5. Servicing of student obligations and institutional loans.**

(1) (Deleted by amendment, L. 2004, p. 566, § 14, effective July 1, 2004.)

(2) The authority may contract with the division to service student obligations made or purchased by the authority.

**Source: L. 84:** Entire section added, p. 625, § 22, effective April 10. **L. 2004:** Entire section amended, p. 566, § 14, effective July 1. **L. 2010:** (2) amended, (HB 10-1428), ch. 390, p. 1831, § 8, effective June 9.

**23-3.1-206.7. Prepaid expense program.** (1) The authority shall develop and administer, in accordance with this part 2, the Colorado prepaid postsecondary education expense program, which program is hereby created. Through the prepaid expense program, all or part of tuition or other costs, as determined by the authority, may be paid in advance of or accumulated toward enrollment at institutions of higher education.

(2) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(3) No purchaser or qualified beneficiary participating in the prepaid expense program shall be classified as a resident for tuition purposes as a result of such participation. Purchasers and qualified beneficiaries shall be required to establish residency status based on the requirements of the state institution at which the qualified beneficiary is seeking to enroll.

(4) The selection by a purchaser in an advance payment contract of a particular state institution shall not in any way constitute a promise or guarantee that a qualified beneficiary will be admitted to any particular state institution or other institution of higher education or allowed to continue enrollment in or graduate from any state institution or other institution of higher education.

(5) (a) The Colorado prepaid postsecondary education expense trust fund is hereby created. The prepaid expense trust fund shall consist of moneys remitted by purchasers, moneys acquired from governmental and private sources, and general fund appropriations, if any. In addition, the prepaid expense trust fund may include any moneys transferred or loaned thereto pursuant to section 23-3.1-205.4. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. On May 26, 2000, the prepaid expense trust fund, and all moneys in said fund, including all interest and earnings in said fund shall be transferred with the authority as provided in section 23-3.1-205.3. All moneys remitted by purchasers and other moneys received by the authority in connection with the prepaid expense program shall be transmitted by the authority to the state treasurer and credited to the prepaid expense trust fund. The state treasurer shall invest moneys in the prepaid expense trust fund based upon

the direction of the authority and shall make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority and in a manner appropriate to carry out the prepaid expense program. All income derived from the deposit and investment of moneys in the prepaid expense trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the prepaid expense trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(c) The state treasurer shall maintain on behalf of the authority the prepaid expense trust fund as a separate fund. The state treasurer shall credit all moneys remitted to the state treasurer by the authority as provided in paragraph (a) of this subsection (5) to the prepaid expense trust fund.

(d) (I) The authority shall evaluate the actuarial soundness of the prepaid expense trust fund if, on the last day of the fiscal year, the aggregate amount of moneys of the prepaid expense trust fund invested in any of the following forms of investment exceeds ten percent of the market value of investable assets of the prepaid expense trust fund:

(A) Common or preferred stock; or

(B) Corporate bonds, notes, or debentures that are convertible into common or preferred stock; or

(C) Investment trust shares.

(II) The authority may contract with a private consultant or consultants to perform an actuarial evaluation of the prepaid expense trust fund and to provide financial advice to the authority in connection with the prepaid expense trust fund. Any actuarial report and written financial advice shall be provided by the authority to the state treasurer. If, based upon an actuarial evaluation, the authority determines that the prepaid expense trust fund is not actuarially sound, the authority may direct the state treasurer to distribute the available assets of the prepaid expense trust fund in a manner permitted by outstanding advance payment contracts. In connection with the evaluation of the prepaid expense trust fund, a calculation based on key assumptions approved by the board shall be made by or on behalf of the authority to determine whether an excess amount exists in the prepaid expense trust fund. If, based on this calculation, the authority determines that an excess amount exists in the prepaid expense trust fund, the authority shall calculate, by dividing such excess amount by the total number of expected tuition units in the prepaid expense trust fund, the portion of such excess amount that would be attributable on a pro rata basis to each such expected tuition unit. At the time the value of any tuition units under an advance payment contract is disbursed from the prepaid expense trust fund during the academic year immediately following such calculation, the portion of the excess amount attributable to such tuition units as a result of the calculation made pursuant to this paragraph (d) shall be paid as part of such disbursement. The excess amount shall otherwise remain in the prepaid expense trust fund as a part of the stabilization reserve.

(e) (I) All expenses of the authority incurred in developing and administering the prepaid expense program shall be payable from the prepaid expense trust fund. The authority may use moneys in the prepaid expense trust fund to reimburse the expenses of the authority incurred in connection with the development and administration of the prepaid expense program. In no event shall annual administration expenses of the authority exceed one percent of the contract price. Any recovery of development costs by the authority shall not include interest or finance charges, but may include moneys transferred from the collegeinvest fund to the prepaid expense trust fund under section 23-3.1-205.4 (4). Any moneys in the prepaid expense trust fund that are not needed for immediate use by the authority shall be invested by the state treasurer in accordance with paragraph (a) of this subsection (5) and with the actuarial report provided by the authority and in investments permitted by section 23-3.1-216 (1) and (3). The authority shall determine the amount of moneys in the fund that shall be invested and shall notify the state treasurer in writing of the amount.

(II) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)

(6) and (7) (Deleted by amendment, L. 2000, p. 1278, § 8, effective May 26, 2000.)



(8) If, at any time, the authority determines that the prepaid expense program, or any aspect thereof, is not financially sound, the authority may discontinue permanently or for a period of time the prepaid expense program or that particular aspect of the program and the execution of additional advance payment contracts. The state treasurer shall continue to invest moneys in the prepaid expense trust fund based upon the direction of the authority and shall continue to make disbursements from the prepaid expense trust fund in connection with the prepaid expense program based upon the direction of the authority for the benefit of existing purchasers and qualified beneficiaries except as otherwise authorized.

**Source:** **L. 96:** Entire section added, p. 423, § 4, effective April 22. **L. 98:** (5)(a) amended, p. 213, § 4, effective August 5. **L. 2000:** Entire section amended, p. 1278, § 8, effective May 26. **L. 2003:** (5)(a) amended, p. 553, § 3, effective August 6. **L. 2004:** (1), (5)(a), (5)(d), and (8) amended, p. 566, § 15, effective July 1. **L. 2008:** (5)(e)(I) amended, p. 204, § 3, effective August 5.

**23-3.1-206.9. Colorado collegeinvest scholarship program - administration - fund - policies.** (1) There is hereby created the Colorado collegeinvest scholarship program for the purpose of increasing access to postsecondary education. The Colorado collegeinvest scholarship program shall be implemented and administered by the authority. A scholarship under the Colorado collegeinvest scholarship program may be awarded only to an undergraduate student who, each year:

(a) (I) Attends a state institution of higher education or a participating private institution of higher education as defined in section 23-18-102 (8) and is eligible to receive a stipend pursuant to article 18 of this title; or

(II) Attends a junior college that is part of a junior college district organized pursuant to article 71 of this title; or

(III) Attends an area vocational school, as defined in section 23-60-103 (1), and is earning postsecondary credits that may be transferred into an associate degree program at a community college or into a degree program at a four-year institution of higher education as provided in section 23-1-108 (7) and the state credit transfer policies established by the Colorado commission on higher education; and

(b) Demonstrates financial need through the student's eligibility for the federal Pell grant or its successor program; and

(c) Meets any other eligibility requirements established by the board, which shall include but need not be limited to requiring the student to maintain a high school cumulative grade point average of at least 2.5.

(2) (a) The Colorado collegeinvest scholarship trust fund, which is hereby created, shall consist of moneys deposited into the fund by the authority, any moneys appropriated to the fund by the general assembly, and any gifts, grants, and donations received by the authority for the Colorado collegeinvest scholarship program. Moneys deposited into the Colorado collegeinvest scholarship trust fund shall be deemed to be trust funds and shall be administered by the authority and shall be used for the direct and indirect costs of implementing and administering, including marketing, the Colorado collegeinvest scholarship program and may be used for need-based financial aid. Annual expenditures on direct marketing shall not exceed five percent of the annual revenue of the trust. Any unexpended and unencumbered moneys remaining in the Colorado collegeinvest scholarship trust fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or to any other fund. Any moneys appropriated by the general assembly to the Colorado collegeinvest scholarship trust fund shall be subject to annual appropriation.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2) to the contrary, on July 1, 2009, of moneys credited to the Colorado collegeinvest scholarship trust fund other than moneys transferred from the student loan guarantee fund created in section 23-3.1-107 (1) (a), the state treasurer shall deduct fifteen million dollars from the Colorado collegeinvest scholarship trust fund and transfer such sum to the general fund.

(c) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, of moneys credited to the Colorado collegeinvest scholarship trust fund other than moneys transferred from the student loan guarantee fund created in section 23-3.1-107 (1)

(a), the state treasurer shall deduct twenty-nine million eight hundred thousand dollars from the Colorado collegeinvest scholarship trust fund and transfer such sum to the general fund if the revenue estimate prepared in June of 2010 in accordance with section 24-75-201.3 (2), C.R.S., indicates for the fiscal year commencing July 1, 2010, that general fund expenditures for that fiscal year based on appropriations enacted by law will result in the use of more than three-eighths of the reserve required by section 24-75-201.1 (1) (d), C.R.S., or if the revenue estimate prepared in September or December of 2010 or in March or June of 2011 in accordance with section 24-75-201.3 (2), C.R.S., indicates for the fiscal year commencing July 1, 2010, that general fund expenditures for that fiscal year based on appropriations then in effect will result in the use of more than three-eighths of the reserve required by section 24-75-201.1 (1) (d), C.R.S.; however, said amount shall be deducted and transferred by the state treasurer only once pursuant to this paragraph (c).

(3) The board shall adopt any policies necessary for the implementation and administration of the Colorado collegeinvest scholarship program, which shall include but need not be limited to implementing the program for the high school graduating class of 2008, providing awards to both part-time and full-time students, and specifying that a scholarship under the program shall only be paid to a student for up to five academic years. The board shall develop an application for the Colorado collegeinvest scholarship program that shall be returned as specified by the board. The application shall include the requirements for and the disqualifications from the Colorado collegeinvest scholarship program. The policies adopted by the board for the implementation and administration of the Colorado collegeinvest scholarship program shall be approved by the executive director.

(4) On or before February 1 of each year, the board shall report to the education committees of the senate and the house of representatives, or any successor committees, on the status of the Colorado collegeinvest scholarship program. The report shall include, but need not be limited to, the financial status of the Colorado collegeinvest scholarship trust fund, the amount of money annually spent on administration, the average scholarship award amount, and the number of students participating in the Colorado collegeinvest scholarship program.

**Source:** **L. 2005:** Entire section added, p. 166, § 1, effective July 1. **L. 2008:** IP(1), (1)(c), (2), (3), and (4) amended, p. 205, § 4, effective August 5. **L. 2009:** (2) amended, (SB 09-279), ch. 367, p. 1926, § 6, effective June 1. **L. 2010:** (2) amended. (HB 10-1383), ch. 361, p. 1713, § 1, effective June 7.

**23-3.1-207. Notes.** (1) The authority may issue from time to time its negotiable notes for any of its purposes as provided in this part 2, including purchase of student obligations or the making of student obligations or institutional loans, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds.

(2) Any resolution authorizing notes of the authority or any issue of such notes may contain any provisions which the authority is authorized to include in any resolution authorizing bonds of the authority or any issue of bonds, and the authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds.

(3) All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available for such payment and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations outstanding at the time of issuance of such notes.

**Source:** **L. 79:** Entire article added, p. 816, § 1, effective July 1. **L. 84:** (1) amended, p. 626, § 23, effective April 10. **L. 2004:** (1) amended, p. 568, § 16, effective July 1.

**23-3.1-208. Bonds.** (1) (a) The authority may issue from time to time its bonds for its purposes as provided in this part 2, including but not limited to purchasing or making



student obligations or making institutional loans. The authority may not undertake the financing of the making or purchasing of student obligations unless, prior to the issuance of any bonds or notes, the board finds that there is insufficient access to student obligations from normal private market sources and that the financing will help alleviate such insufficient access.

(b) (Deleted by amendment, L. 2004, p. 568, § 17, effective July 1, 2004.)

(c) In anticipation of the sale of its bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available for payments and not otherwise pledged or from proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes shall be issued in the same manner as bonds. Such notes and the resolution authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority contains.

(2) (a) All bonds issued by the authority shall be payable solely out of the revenues and receipts of the authority as designated in the resolution of the authority under which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority which shall name a bank or trust company as trustee or out of other moneys available for payments and not otherwise pledged.

(b) Bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear interest at such fixed or variable rate or rates per annum as determined by the authority or in accordance with methods approved by the authority without regard to any interest rate limitation appearing in any other law of this state, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either an officer of the authority or an officer of the trustee authenticating the same, may be in the form of coupon bonds which have attached interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this part 2, all as provided in the resolution of the authority under which the bonds are authorized to be issued or as provided in a trust indenture authorized by the authority.

(3) If deemed advisable by the authority, there may be retained in the resolution or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part of said bonds as may be specified in such resolution or in such trust indenture, at such price or prices and on such terms and conditions as may be set forth in such resolution or in such trust indenture. Nothing in this part 2 shall be construed to confer on the authority the right or option to redeem any bonds except as provided in the resolution or in such trust indenture under which they are issued.

(4) The bonds or notes of the authority may be sold at public or private sale for such price or prices, in such manner, and at such times as determined by the authority, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance of bonds or notes. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive officer by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(5) (a) Any outstanding bonds of the authority may be refunded or advance refunded at any time and from time to time by the authority by the issuance of its bonds for such purpose in a principal amount determined by the authority, which may include interest accrued or to accrue with or without giving effect to investment income and other expenses necessary to be paid in connection with such issuance.

(b) (I) Any such refunding may be effected whether the bonds to be refunded have then matured or will mature thereafter, either by sale of the refunding bonds and the application

of the proceeds of such sale for the payment of the bonds to be refunded or by the exchange of the refunding bonds for the bonds to be refunded with the consent of the holders of the bonds to be so refunded, regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or are due serially or otherwise.

(II) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may be applied, in the discretion of the authority, to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and, pending such application, may be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested and reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such time or times as are appropriate to assure the prompt payment as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profit, if any, earned or realized on any such investment may also be applied, in the discretion of the authority, to the payment of the outstanding bonds or notes to be so refunded or to the payment of principal and interest on the refunding bonds or for any other purpose under this part 2. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments may be returned to the authority for use by it in any lawful manner.

(c) All such refunding bonds shall be subject to the provisions of this part 2 in the same manner and to the same extent as other bonds issued pursuant to this part 2.

(6) The proceeds of any bonds, notes, bond anticipation notes, or other obligations may be used and applied to the payment of financing costs, including legal, underwriting and investment banking, accounting, and other similar costs; the funding of any reserve funds deemed necessary or advisable by the authority; interest on such bonds, notes, bond anticipation notes, or other obligations for a period not to exceed three years; and all other necessary and incidental costs and expenses.

**Source:** **L. 79:** Entire article added, p. 816, § 1, effective July 1. **L. 81:** (1)(a) amended, p. 1090, § 2, effective May 28. **L. 83:** (1)(a) amended, p. 785, § 2, effective April 29. **L. 84:** (1) R&RE, p. 626, § 24, effective April 10. **L. 89:** (5)(b)(II) amended, p. 1108, § 12, effective July 1. **L. 92:** (1)(a) amended, p. 586, § 1, effective March 4. **L. 2000:** (1)(a) amended, p. 130, § 1, effective August 2. **L. 2004:** (1), (2), and (3) amended, p. 568, § 17, effective July 1. **L. 2006:** (1)(a) amended, p. 514, § 12, effective July 1. **L. 2008:** (1)(a) amended, p. 206, § 5, effective August 5.

**23-3.1-209. Negotiability of bonds.** All bonds and any interest coupons applicable to such bonds are hereby declared and shall be construed to be negotiable instruments.

**Source:** **L. 79:** Entire article added, p. 818, § 1, effective July 1. **L. 84:** Entire section amended, p. 627, § 25, effective April 10.

**23-3.1-210. Security for bonds and notes.** (1) (a) The principal and interest on any bonds or notes issued by the authority may be secured by a trust indenture by and between the authority and a corporate trustee. Such trust indenture or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, student obligations, student obligation commitments, institutional loans, moneys deposited or pledged by or on behalf of one or more institutions of higher education, moneys deposited or pledged by the division, temporary loans, contracts, agreements, and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of student obligations and institutional loans and interest on such moneys, including the proceeds of insurance on such obligations and loans and any other moneys received or due to be received by the authority.



(b) Such trust indenture or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any of the bonds or notes as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the purposes to which proceeds of the bonds or notes may be applied, the disposition or pledging of the revenues or assets of the authority, the terms and conditions for the issuance of additional bonds or notes, and the custody, safeguarding and application of all moneys. Any such trust indenture or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by any such holders.

(c) In addition, any such trust indenture or resolution may contain such other provision as the authority may deem reasonable and proper for the security of the holders of any bonds or notes, including but not limited to provisions for insurance, letters of credit, standby credit agreements, take-out commitments, or other forms of credit insuring against default or guaranteeing timely payment with respect to student obligations, institutional loans, or bonds. All expenses incurred in carrying out the provisions of such indenture or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or notes or from any other funds available to the authority.

(2) (a) Any pledge made by the authority, by one or more institutions of higher education, by a nonprofit corporation acting on behalf of one or more institutions of higher education, or by the division shall be valid and binding from the time when the pledge is made. The revenues and moneys so pledged and thereafter received by or otherwise credited to such pledging parties shall immediately be subject to lien of such pledge without any physical delivery, filing, or further act, and the lien of such pledge shall have priority over any and all other obligations and liabilities of such pledging parties, subject to any contractual covenants by the pledging parties and any prior pledges and liens, and shall be valid, binding, and enforceable against all parties having claims of any kind in tort, contract, or otherwise against such pledging parties, irrespective of whether such claiming parties have notice of such lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, and indenture made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same are made has been fully paid or provision for such payment duly made.

(b) In the event of default in any such payment or in any agreements of the authority made as part of the contract under which the bonds were issued, whether contained in the resolution authorizing the bonds or in any trust indenture executed as security for such bonds, said payment or agreement may be enforced by suit, mandamus, or either of such remedies.

(3) Any bank or trust company that may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as required by the authority.

**Source: L. 79:** Entire article added, p. 818, § 1, effective July 1. **L. 84:** (1)(a), (1)(c), and (2)(a) amended, p. 627, § 26, effective April 10. **L. 2004:** (1)(a), (1)(c), (2), and (3) amended, p. 570, § 18, effective July 1.

**23-3.1-211. Personal liability.** Neither the members of the board, employees or agents of the authority, nor any person executing the bonds or notes or advance payment contracts shall be liable personally on bonds or notes or advance payment contracts or be subject to any personal liability or accountability by reason of the issuance thereof or as a result of the prepaid expense program.

**Source: L. 79:** Entire article added, p. 820, § 1, effective July 1. **L. 96:** Entire section amended, p. 427, § 5, effective April 22. **L. 2000:** Entire section amended, p. 1282, § 9, effective May 26. **L. 2004:** Entire section amended, p. 572, § 19, effective July 1.

**23-3.1-212. Purchase.** The authority may purchase its bonds or notes out of any available funds. The authority may hold, pledge, cancel, or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

**Source: L. 79:** Entire article added, p. 820, § 1, effective July 1.

**23-3.1-213. Payment of bonds and advance payment contracts - limited liability of state.** (1) Bonds and notes issued by the authority shall be payable solely from the funds provided for in this part 2 and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such bonds and notes, nor shall such bonds or notes constitute the giving, pledging, or loaning of the full faith and credit of the state. The issuance of bonds or notes under the provisions of this part 2 shall not obligate the state or empower the authority, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.

(2) Nothing in this part 2 shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado; and all bonds issued by the authority pursuant to the provisions of this part 2 are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture executed as security for such bonds and are not otherwise a debt or liability of the state of Colorado.

(3) Except as otherwise provided in this part 2, the state shall not be liable in any event for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, obligation, or agreement of any kind whatsoever that may be undertaken by the authority. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state, except from funds specifically pledged by the state, or any charge upon its general credit or against its taxing power.

(4) Except as otherwise provided in this part 2, advance payment contracts and the benefits due thereunder shall be payable solely from the moneys in the prepaid expense trust fund, and shall not otherwise constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state otherwise be liable on such advance payment contracts, nor shall such advance payment contracts constitute the giving, pledging, or loaning of the full faith and credit of the state. Advance payment contracts and the benefits due thereunder shall be payable by the authority solely from moneys in the prepaid expense trust fund and are not payable from or secured in any way by other moneys or accounts of the authority.

**Source: L. 79:** Entire article added, p. 820, § 1, effective July 1. **L. 96:** (4) added, p. 428, § 6, effective April 22. **L. 2000:** Entire section amended, p. 1282, § 10, effective May 26.

**23-3.1-214. Exemption from taxation - securities law.** The income or other revenues of the authority, including income earned on the investment of moneys in the prepaid expense and the savings trust funds, all properties at any time owned by the authority, any bonds, notes, or other obligations issued pursuant to this part 2, the transfer of and the income, including any profit made on sale, from any such bonds, notes, or other obligations, and all trust indentures and other documents issued in connection with such bonds, notes, or other obligations shall be exempt at all times from all taxation and assessments in the state of Colorado. In the bond resolution authorizing the issuance of any bonds by the authority, the board may waive the exemption from federal income taxation for interest on such bonds. Bonds issued by the authority shall also be exempt from the provisions of article 51 of title 11, C.R.S.

**Source: L. 79:** Entire article added, p. 820, § 1, effective July 1. **L. 83:** Entire section amended, p. 785, § 3, effective April 29. **L. 96:** Entire section amended, p. 428, § 7, effective April 22.



**23-3.1-215. Fees.** All expenses of the authority incurred in carrying out the provisions of this part 2 shall be payable solely from funds provided under the authority of this part 2, and no liability shall be incurred by the authority beyond the moneys which are provided pursuant to this part 2. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided pursuant to this part 2, the authority may borrow such moneys as may be required for the necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided pursuant to this part 2.

**Source: L. 79:** Entire article added, p. 821, § 1, effective July 1.

**23-3.1-216. Investment of funds.** (1) Moneys of the authority held in the collegeinvest fund created in section 23-3.1-205.4 shall be invested as provided in section 23-3.1-205.4 (3). Other moneys of the authority may be invested in property or securities in which the state treasurer may legally invest moneys subject to his or her control. The authority may sell the securities and may deposit the securities in a trust bank within or without the state. Any moneys deposited in a banking institution or a depository authorized in section 24-75-603, C.R.S., shall be secured in such a manner and subject to the terms and conditions as the board may determine, with or without payment of any interest on the deposit, including, without limitation, time deposits evidenced by certificates of deposit.

(2) The board may direct a corporate trustee that holds moneys of the authority pursuant to a trust indenture or other agreement between the trustee and the authority to invest or reinvest the moneys in any investments, other than those specified in subsection (1) of this section, if the board determines that, as of the date of the determination, the investment meets the standards for investments established in section 15-1-304, C.R.S.

(3) In addition to the investments otherwise permitted in this part 2, the state treasurer may invest moneys in the prepaid expense trust fund in the following:

- (a) State and municipal bonds;
- (b) Corporate notes, bonds, and debentures, whether or not convertible, to the extent provided for in paragraph (d) of this subsection (3);
- (c) Participation agreements with life insurance companies;
- (d) Common or preferred stock; except that:
- (I) No investment of moneys in the prepaid expense trust fund in common or preferred stock, or both, of any corporation shall be of an amount that exceeds five percent of the market value of investable assets of the trust fund; except that, such amount may exceed five percent, for a period not to exceed sixty consecutive days;

(II) The prepaid expense trust fund shall not acquire more than five percent of the outstanding stock or bonds of any single corporation; and

(III) The aggregate amount of moneys of the prepaid expense trust fund invested in common or preferred stock, or in corporate bonds, notes, or debentures that are convertible into common or preferred stock, or in investment trust shares shall not exceed sixty percent of the market value of investable assets of the prepaid expense trust fund; except that such market value of investable assets may exceed sixty percent, by not more than five percent, for a period not to exceed sixty consecutive days;

(d.5) Investments in the form of mutual funds; and

(e) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if the board determines by resolution that:

(I) Such contract or agreement meets the standard for investments established in section 15-1-304, C.R.S.;

(II) The income on such contract or agreement is at least comparable to the income then available on the other investments permitted in this section; and

(III) Such contract or agreement will assist the authority in maintaining an actuarially sound trust fund.

**Source: L. 79:** Entire article added, p. 821, § 1, effective July 1. **L. 81:** Entire section amended, p. 1090, § 3, effective May 28. **L. 83:** Entire section amended, p. 786, § 4,

effective April 29. **L. 89:** (1) amended, p. 1108, § 13, effective July 1. **L. 96:** (3) added, p. 428, § 8, effective April 22. **L. 2000:** Entire section amended, p. 1283, § 11, effective May 26. **L. 2004:** (1) amended, p. 153, § 65, effective July 1; (1) amended, p. 572, § 20, effective July 1. **L. 2008:** (1) and (2) amended, p. 206, § 6, effective August 5.

**Editor's note:** Amendments to subsection (1) by House Bill 04-1126 and House Bill 04-1350 were harmonized.

**23-3.1-217. Proceeds as trust funds.** Except as otherwise provided in this part 2, all moneys received pursuant to this part 2, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, including moneys received under advance payment contracts shall be deemed to be trust funds to be held and applied solely as provided in this part 2. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this part 2, subject to such policies and guidelines as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust indenture securing such obligations provides.

**Source:** **L. 79:** Entire article added, p. 821, § 1, effective July 1. **L. 96:** Entire section amended, p. 429, § 9, effective April 22. **L. 2000:** Entire section amended, p. 1285, § 12, effective May 26.

**23-3.1-217.5. Claims of creditors - exemption.** Moneys credited to or expended from the prepaid expense trust fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this part 2, which contract has not been terminated, are exempt from all claims of creditors of the purchaser, the qualified beneficiary, or the authority.

**Source:** **L. 96:** Entire section added, p. 429, § 10, effective April 22. **L. 2000:** Entire section amended, p. 1285, § 13, effective May 26.

**23-3.1-218. Agreement of the state not to limit or alter rights of obligees.** The state hereby pledges to and agrees with the holders of any bonds, notes, or other obligations issued under this part 2 and with those parties who may enter into contracts with the authority, with state-supported institutions of higher education, or with the division pursuant to the provisions of this part 2 that the state will not limit, alter, restrict, or impair the rights vested in the authority to fulfill the terms of any agreements made with the holders of bonds, notes, or other obligations authorized and issued pursuant to this part 2 and with the parties who may enter into contracts with the authority pursuant to this part 2, and that the state will not limit, alter, restrict, or impair the rights vested in any state-supported institution of higher education or in the division to fulfill the terms of any contracts made with the authority and with the parties who may enter into contracts with such institutions of higher education or with the division pursuant to this part 2. The state further agrees that it will not in any way impair the rights or remedies of the holders of such bonds, notes, or other obligations of such parties until such bonds, notes, and other obligations, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority, the state-supported institutions of higher education, or the division. Nothing in this part 2 precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, or other obligations of the authority or those entering into such contracts with the authority or the authority under any contract with a state-supported institution of higher education or with the division. The authority may include this pledge and undertaking for the state in such bonds, notes, or other obligations and in such contracts.



**Source: L. 79:** Entire article added, p. 821, § 1, effective July 1. **L. 84:** Entire section amended, p. 628, § 27, effective April 10.

**23-3.1-219. Enforcement of rights of bondholders.** Any holder of bonds issued pursuant to this part 2 or a trustee under a trust agreement or trust indenture entered into pursuant to this part 2, except to the extent that his rights are restricted by any bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this part 2 or the bond resolution and to enjoin unlawful activities.

**Source: L. 79:** Entire article added, p. 822, § 1, effective July 18.

**23-3.1-220. Bonds eligible for investment.** All banks, bankers, trust companies, savings and loan associations, investment companies, insurance companies and associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds, notes, or other obligations, issued pursuant to this part 2. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds, notes, or other obligations only if said bonds, notes, or other obligations satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

**Source: L. 79:** Entire article added, p. 822, § 1, effective July 1. **L. 89:** Entire section amended, p. 1127, § 59, effective July 1. **L. 2004:** Entire section amended, p. 572, § 21, effective July 1.

**23-3.1-221. Account of activities - receipts for expenditures - report - audit.** The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall report annually on such activities, receipts, and expenditures in the month of February to its members, to the governor, to the commission, and to the state auditor in a form prescribed by the controller. Also included in the report shall be any recommendations with reference to additional legislation, a financial analysis of the actuarial soundness of the prepaid expense trust fund if one was prepared, an accounting of any loans or transfers approved pursuant to section 23-3.1-205.4 (4), and other action that may be necessary to carry out the purposes of the authority. The state auditor may investigate the affairs of the authority and may examine the properties and records of the authority, and the controller may prescribe methods of accounting and the rendering of periodical reports in relation to undertakings by the authority. The department of higher education shall adopt and prepare a budget for the authority for the next fiscal year. Beginning July 1, 2000, the fiscal year of the authority shall begin on July 1 and shall end on June 30. The authority shall not be required to comply with fiscal rules of the state of Colorado until July 1, 2000.

**Source: L. 79:** Entire article added, p. 822, § 1, effective July 1. **L. 81:** Entire section amended, p. 341, § 5, effective March 29; entire section amended, p. 1091, § 4, effective May 28. **L. 96:** Entire section amended, p. 430, § 11, effective April 22. **L. 2000:** Entire section amended, p. 1286, § 14, effective May 26. **L. 2003:** Entire section amended, p. 552, § 2, effective August 6. **L. 2004:** Entire section amended, p. 572, § 22, effective July 1.

**Editor's note:** Amendments to this section in House Bill 81-1215 and House Bill 81-1020 were harmonized.

**23-3.1-222. Federal social security act.** The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal "Social Security Act", as from time to time amended.

**Source: L. 79:** Entire article added, p. 822, § 1, effective July 1.

**23-3.1-223. Powers of authority not restricted.** This part 2 shall not be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state but shall be construed as cumulative of any such powers. Nothing in this part 2 shall be construed to deprive the state and its political subdivisions of their respective police powers over properties of the authority or to impair any power over such properties of any official or agency of the state and its governmental subdivisions which may be otherwise provided by law.

**Source: L. 79:** Entire article added, p. 822, § 1, effective July 1.

**23-3.1-224. Contract powers of state-supported institutions of higher education - nonliability of state.** (1) For the purpose of funding student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the authority for the making or securing of student obligations and institutional loans, or the securing of authority bonds including, without limiting the generality of the foregoing, contracts which require such institutions to pledge certain revenues, pay fees, advance or loan funds to the authority, establish and maintain reserves, and make, sell, or purchase student obligations.

(2) For the purpose of making student obligations, the governing board of any state-supported institution of higher education is authorized to enter into contracts with the division for the origination, disbursement, servicing, or guarantee of any student obligation funded by an institutional loan.

(3) Nothing in this section shall be construed to authorize a state-supported institution of higher education to create a debt of the state within the meaning of the constitution or statutes of Colorado.

(4) Any obligation incurred by any state-supported institution of higher education under the provisions of this part 2 shall not constitute or become an indebtedness, a debt, or a liability of the state, nor shall the state be liable on such obligations, nor shall such obligations constitute the giving, pledging, or loaning of the full faith and credit of the state. Such obligations shall not obligate the state or empower such institution, directly, indirectly, or contingently, to levy or collect any form of taxes or assessments, to create any indebtedness payable out of taxes or assessments, or to make any appropriation for their payment, and such appropriation, levy, or collection is prohibited.

(5) The state shall not be liable in any event for the performance of any pledge, obligation, or agreement of any kind whatsoever which may be undertaken by such institutions. No breach of any such pledge, obligation, or agreement shall impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

**Source: L. 84:** Entire section added, p. 629, § 28, effective April 10. **L. 2004:** (1) and (2) amended, p. 573, § 23, effective July 1.

**23-3.1-225. Confidentiality of records.** (1) Except as otherwise provided in this section, all data, information, and records relating to the prepaid expense trust fund and the prepaid expense program are public records and are subject to inspection pursuant to the provisions of part 2 of article 72 of title 24, C.R.S.

(2) The following data, information, and records relating to the prepaid expense trust fund and the prepaid expense program shall be kept confidential by the authority, and the authority shall deny the right of access to or inspection of such data, information, and records except as provided in subsection (3) of this section:

(a) Data, information, and records relating to individual purchasers and qualified beneficiaries of advance payment contracts, including any records that reveal personally identifiable information about such individuals; except that the authority may disclose such information to an individual purchaser regarding his or her own contract;



(b) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by the authority; and

(c) Marketing plans and the results of market surveys conducted by the authority.

(3) Notwithstanding the provisions of subsection (2) of this section, the authority may disclose and may provide the right of access to or inspection of any data, information, or records to agents or representatives of professionals with whom the authority has contracted as provided in an advance payment contract or contracts, to the department of revenue, or to the state treasurer, or to other third parties if the purchaser or purchasers of the advance payment contract or contracts have consented in writing to such disclosure.

(4) No cause of action shall arise against a person for disclosing confidential information in violation of subsection (2) of this section unless the act or omission giving rise to the cause of action was intentional or grossly negligent.

**Source:** L. 98: Entire section added, p. 212, § 2, effective August 5. L. 2000: Entire section R&RE, p. 221, § 1, effective March 29. L. 2004: (3) amended, p. 573, § 24, effective July 1.

### **23-3.1-226. Policies for promotion and disclosure of program information.**

(1) The authority shall design a policy related to the promotion of the prepaid expense program and a policy related to the disclosure of program-related information to purchasers or qualified beneficiaries in a manner consistent with this part 2 and consistent with the requirements of section 529 of the internal revenue code in order to require that:

(a) Appropriate promotional material and program-related information disclose the average tuition increase in state institutions of higher education in Colorado, as defined in section 23-3.3-101 (4), over the previous five years;

(b) Annual statements to purchasers or qualified beneficiaries disclose the number of tuition units paid for, the payments made for such tuition units, and the current value of such tuition units, as well as the average tuition increases in state institutions of higher education in Colorado, as defined in section 23-3.3-101 (4), over the five previous years;

(c) An annual report to each purchaser of an advance payment contract setting forth the value and rate of return on the advance payment contract based on a calculation of average tuition and setting forth the amount of the stabilization reserve and retained earnings in the prepaid expense program. The report shall be provided at least annually and upon request of the purchaser of the advance payment contract.

(d) Promotional material and program-related information disclose that no moneys invested in the prepaid expense program are insured by the state of Colorado and that neither the principal deposited nor the investment returned is guaranteed by the state of Colorado. Such material and information shall also disclose the existence of a stabilization reserve to better support its liability.

(e) Any fees paid from moneys collected pursuant to this part 2 are disclosed in promotional material and program-related information provided to the public and to purchasers or qualified beneficiaries, including disclosure of amounts assessed for payments over time.

**Source:** L. 2000: Entire section added, p. 1286, §15, effective May 26.

## **PART 3**

### **COLLEGE SAVINGS PLAN**

**23-3.1-301. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that a choice of education opportunities will benefit the residents of the state of Colorado and that the establishment of a college savings program will enhance the availability of postsecondary educational opportunities for residents. It is the intent of the general assembly to achieve this purpose through a public-private partnership using selected financial institutions to serve as account holders and managers of individual college savings accounts.

(2) The general assembly further finds, determines, and declares that the college savings program can enhance the availability of postsecondary educational opportunities for adults who are already in the workforce and therefore encourages adults to take advantage of the college savings program to further their own postsecondary educational opportunities and job retraining goals.

**Source:** **L. 99:** Entire part added, p. 454, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1287, § 16, effective May 26. **L. 2004:** Entire section amended, p. 573, § 25, effective July 1. **L. 2010:** Entire section amended, (SB 10-202), ch. 396, p. 1881, § 1, effective June 9.

**23-3.1-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) “Account” means an individual trust account or savings account established pursuant to this part 3.

(2) “Account owner” means the person designated at the time an account is opened as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(2.5) “Adult learner” means an account owner who is also the account beneficiary and who opens an account in pursuit of his or her own postsecondary educational opportunities and job retraining goals.

(3) “Authority” means collegeinvest, transferred to the department of higher education and existing as a division of that department pursuant to section 23-3.1-203.

(4) “Designated beneficiary” or “beneficiary” means, with respect to an account, the person designated at the time the account is opened, or the person who replaces a designated beneficiary, as the person whose education expenses are expected to be paid from the account. A designated beneficiary may be an adult and may be the account owner.

(5) “Eligible education institution” has the same meaning as that term is defined in 26 U.S.C. sec. 135 (c) (3).

(5.5) “Executive director” means the executive director of the department of higher education.

(6) “Financial institution” means any state bank, state trust company, industrial bank, savings and loan association, credit union chartered by the state of Colorado, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of Colorado.

(7) “Internal revenue code” means the federal “Internal Revenue Code of 1986”, as amended.

(8) “Manager” means a financial institution under contract with the authority to serve as administrator of the program and recipient of contributions on behalf of the program.

(9) “Member of the family” has the same meaning as that term is defined in 26 U.S.C. sec. 529 (e) (2).

(10) “Nonqualified withdrawal” means a withdrawal from an account other than a qualified withdrawal, a withdrawal made as the result of the death or disability of the designated beneficiary of an account, a withdrawal made as a result of the beneficiary’s receipt of a scholarship, or a rollover or change of designated beneficiary.

(11) “Program” means the college savings program established pursuant to this part 3.

(12) “Qualified higher education expenses” has the same meaning as is provided for that term in 26 U.S.C. sec. 529 (e) (3).

(13) “Qualified withdrawal” means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, a withdrawal made on account of the death or disability of the designated beneficiary, or a withdrawal made on account of a scholarship, but only if the withdrawal is made in accordance with this part 3.

**Source:** **L. 99:** Entire part added, p. 454, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1287, § 16, effective May 26. **L. 2004:** (3) amended, p. 574, § 26, effective July 1. **L. 2010:** (2.5) added and (4) amended, (SB 10-202), ch. 396, p. 1881, § 2, effective June 9.



**23-3.1-303. Department - purpose - powers - duties.**

(1) (Deleted by amendment, L. 2000, p. 1288, § 16, effective May 26, 2000.)

**Source:** L. 99: Entire part added, p. 456, § 1, effective July 1. L. 2000: Entire part amended, p. 1288, § 16, effective May 26.

**23-3.1-304. Authority - purpose - powers - duties.** (1) In addition to any other powers or duties specifically granted to the authority in part 2 of this article and in this part 3, the authority shall:

(a) Develop and implement the program in a manner consistent with this part 3 through the adoption of guidelines and procedures;

(b) Select the financial institution or institutions, and enter into a contract with said institution or institutions to serve as managers and to invest the contributions deposited into the accounts;

(c) Establish rules regarding withdrawal of funds, which rules shall include provisions that will enable the authority or the manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal;

(d) (Deleted by amendment, L. 2000, p. 1288, § 16, effective May 26, 2000.)

(e) Seek rulings and other guidance from the United States department of the treasury, the internal revenue service, and the securities and exchange commission relating to the program as is necessary for proper implementation and development of the program;

(f) Make changes to the program required in order for account owners and beneficiaries and the program to obtain or maintain federal income tax benefits or treatment provided by section 529 of the internal revenue code and exemptions under federal securities laws;

(g) When establishing policies, guidelines, and procedures, interpret the provisions of this part 3 broadly in light of the purpose and objectives set forth in this part 3;

(h) Charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program in amounts not exceeding the cost of establishing and administering the program, including the funding of scholarships and other grants;

(i) Approve the application and review, for purposes of compliance with applicable laws and regulations, any informational materials utilized by the manager to be furnished to persons who desire to participate in the program established in this part 3;

(j) Develop policies relating to penalties associated with nonqualified withdrawals from accounts pursuant to section 23-3.1-306 (8);

(k) Adopt a policy to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiary;

(l) Require that every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account clearly indicate that the account is not insured by this state and neither the principal deposited nor the investment return is guaranteed by the state;

(m) Make and execute contracts with depositors;

(n) Develop and implement a plan to promote the use of accounts by adult learners;

(o) Develop and implement procedures to allow an employer to make a matching contribution to an adult learner's account for any contribution made by the adult learner; except that any employer matching contribution shall be subtracted from federal taxable income pursuant to section 39-22-104 (4) (o), C.R.S., to the extent that the contribution is included in federal taxable income;

(p) Develop procedures to provide college planning and preparation for adult learners through the state-provided, free resource commonly referred to as "college in Colorado";

(q) Develop procedures for coordinating with the department of labor and employment to make information regarding accounts for adult learners available to potential participants;

(r) Do all things necessary and convenient to carry out the purposes of this part 3.

(2) Notwithstanding the restrictions in section 23-3.1-216, the authority is hereby authorized to contract with one or more financial institutions pursuant to section 23-3.1-305 to act as managers for the investment of contributions related to this program in stocks,

bonds, mutual funds, and other such investments as deemed appropriate by the authority. In so doing, the authority shall be bound by the fiduciary duty described in section 15-1-304, C.R.S., and shall assure that investments by the managers are made with judgment and care that persons of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. The funds contributed to the accounts established by account owners pursuant to this section are held in trust by the authority and the manager for the sole benefit of the account owner and beneficiary. These contributions are not subject to any limitations on the investment of public funds and are not subject to section 20 of article X of the state constitution, which limits fiscal year spending of state government and other districts.

**Source:** L. 99: Entire part added, p. 456, § 1, effective July 1. L. 2000: Entire part amended, p. 1288, § 16, effective May 26. L. 2008: IP(1) and (1)(h) amended, p. 207, § 7, effective August 5. L. 2010: (1)(n) amended and (1)(o), (1)(p), (1)(q), and (1)(r) added, (SB 10-202), ch. 396, p. 1882, § 3, effective June 9.

**23-3.1-305. Financial institutions - managers - purpose - selection - requirements - contracts.** (1) The authority shall implement the program through the use of one or more financial institutions to act as managers. Under the program, potential account owners may establish accounts through the program at the financial institution.

(2) The authority shall solicit proposals from financial institutions to act as the recipients of contributions and managers.

(3) The authority shall select from among bidding financial institutions one or more financial institutions that demonstrate the most advantageous combination to account owners and beneficiaries, based on the following factors:

(a) Financial stability and integrity;

(b) The ability of the financial institution, directly or through a subcontract, to satisfy record-keeping and reporting requirements;

(c) The financial institution's plan for promoting the program and the investment that the financial institution is willing to make in order to promote the program;

(d) The historic ability of the investment instruments utilized by the financial institution to track the estimated costs of higher education as calculated by the United States department of education;

(e) The fees, if any, proposed to be charged to account owners for maintaining accounts;

(f) The minimum initial cash contribution and minimum contributions that the financial institution will require, and the willingness of the financial institution to accept contributions through payroll deduction plans or systematic deposit plans; and

(g) Any other benefits to the state or to its residents, included in the proposal, including an account opening fee payable to the authority by the account owner.

(4) The authority shall contract with one or more financial institutions, in accordance with subsection (5) of this section, to serve as managers and to invest the contributions to accounts. On May 26, 2000, the effective date of Senate Bill 00-164, as enacted at the second regular session of the sixty-second general assembly, pursuant to section 23-3.1-205.3, the authority shall succeed to all rights and obligations under any such existing contracts.

(5) The authority may select more than one financial institution for the program if the United States internal revenue service has provided guidance that giving a contributor a choice of two or more financial institutions will not cause the program to fail to qualify for favorable tax treatment under section 529 of the internal revenue code, and the authority concludes that the choice of two or more financial institutions is in the best interest of account owners and beneficiaries and will not interfere with the promotion of the program.

(5.5) The authority may select a financial institution pursuant to subsection (3) of this section without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(6) A manager shall:



(a) Take all actions required to keep the program in compliance with the requirements of this part 3 and to assure that the program is treated as a qualified state tuition plan under section 529 of the internal revenue code and to assure that the program is exempt from registration under the federal securities law;

(b) Keep adequate and separate records of each account and provide the authority with the information necessary to prepare the reports required by section 529 of the internal revenue code or file these reports on behalf of the authority;

(c) Compile and total information contained in statements required to be prepared pursuant to section 23-3.1-306 (16) and (17) and provide these compilations to the authority;

(d) Provide representatives of the authority access to the books and records of the manager to the extent needed to determine compliance with the contract;

(e) Hold all accounts in trust for the sole benefit of the account owner and beneficiary on behalf of the program, acting in a fiduciary capacity and making investments with judgment, care, and prudence as described in section 15-1-304, C.R.S.; and

(f) Develop a plan to promote the program and, after approval of such plan by the authority, promote the program in accordance with the plan.

(7) Any contract executed between the authority and a financial institution pursuant to this section shall be for a term of at least five years and may be renewable.

(8) If a contract executed between the authority and a financial institution pursuant to this section is not renewed, all of the following conditions shall apply at the end of the term of the nonrenewed contract, so long as applying these conditions does not disqualify the program as a qualified state tuition plan under section 529 of the internal revenue code:

(a) The authority shall continue to maintain the program at the financial institution;

(b) Accounts previously established at the financial institution shall not be terminated, except as provided in paragraph (e) of this subsection (8) or as provided in subsection (9) of this section;

(c) Additional contributions may be made to the accounts;

(d) No new accounts may be placed with that financial institution; and

(e) If the authority determines that continuing the accounts at the financial institution is not in the best interest of the account owners, or if the financial institution has elected not to renew the contract, the accounts may be transferred to another financial institution under contract with the authority.

(9) The authority may terminate a contract with a financial institution at any time. If a contract is terminated pursuant to this subsection (9), the authority shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a manager and into investment instruments as similar to the original investments as possible pursuant to the guidelines established in section 23-3.1-306 (13). The authority may select the successor financial institution without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(10) The authority shall work with the managers of the program in place on June 9, 2010, and any future managers to determine the most effective savings options offered by the managers for account owners who are adult learners. Each manager of the program that promotes the program pursuant to paragraph (f) of subsection (6) of this section shall develop and implement a plan to expand the promotion of the program to encourage adult learners to participate in the program in pursuit of their own postsecondary educational opportunities and job retraining goals.

**Source:** L. 99: Entire part added, p. 457, § 1, effective July 1. L. 2000: Entire part amended, p. 1290, § 16, effective May 26. L. 2008: (8)(e) amended, p. 207, § 8, effective August 5. L. 2010: (10) added, (SB 10-202), ch. 396, p. 1882, § 4, effective June 9.

### **23-3.1-306. Accounts - contributions - withdrawals - penalties - statements.**

(1) The program shall be operated through the use of accounts. An account may be opened by any person who desires to save for the qualified higher education expenses of a potential beneficiary, including himself or herself as an adult learner, by satisfying each of the following requirements:

(a) Completing an application in the form prescribed by the financial institution and approved by the authority. Said application shall include the following information:

(I) The name, address, and social security number or employer identification number of any person that contributes to the account;

(II) The name, address, and social security number or employer identification number of the account owner;

(III) The name, address, social security number or employer identification number, and date of birth of the designated beneficiary;

(IV) A certification from the contributor that states that to the best of the contributor's knowledge, the account balance for the designated beneficiary in all qualified state tuition programs, as defined in section 529 of the internal revenue code, does not exceed the greater of either a maximum college savings amount established by the authority or the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur; and

(V) Any other information that the authority may deem necessary.

(b) Making the minimum contribution required by the financial institution to open an account.

(2) Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

(3) Contributions to accounts shall be made in cash only.

(4) Account owners may withdraw all or part of the balance from an account upon giving sixty days' notice, or upon such shorter period as may be authorized by the authority pursuant to rules established by the authority, including any applicable fees and penalties.

(5) An account owner may change the designated beneficiary of an account to an individual who is a member of the family or former designated beneficiary in accordance with procedures established by the authority.

(6) At the direction of the account owner, all or a portion of an account may be transferred to another account, if the designated beneficiary of the transferee account is a member of the family of the designated beneficiary of the transferor account.

(7) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate rules related to excess contributions or rules related to investment choice.

(8) In the case of any nonqualified withdrawal from an account, an amount that would constitute more than a de minimis penalty, as determined by the authority in accordance with section 529 of the internal revenue code, shall be withheld as a penalty from the amount withdrawn or from funds remaining in the account and paid to the authority for use in operating the program and for state student financial aid.

(9) If an account owner makes a nonqualified withdrawal and no penalty amount is withheld pursuant to subsection (8) of this section, or the amount withheld is less than the amount required to be withheld pursuant to subsection (8) of this section for nonqualified withdrawals, the account owner shall pay the unpaid portion of the penalty to the authority on or before April 15 of the following tax year.

(10) Each account shall be accounted for separately from all other accounts under the program.

(11) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(12) As long as prohibited by federal law, no contributor to, account owner of, or designated beneficiary of any account may direct the investment of any contribution to an account or the earnings from the account.

(13) If the authority terminates the contract of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the authority shall select the financial institution to which the balances of the accounts are moved.



(14) Neither an account owner nor a designated beneficiary may use an interest in an account as a security for a loan. Any pledge of an interest in an account is of no force and effect.

(15) If there is any distribution from an account to any person or for the benefit of any person during the calendar year, the distribution shall be reported to the internal revenue service and to the account owner or the designated beneficiary to the extent required by federal law.

(16) The financial institution shall provide statements to each account owner at least once each year, within thirty-one days after the end of the calendar year. The statement shall identify the contributions made during the preceding reporting period, the total contributions made through the end of the reporting period, the value of the account as of the end of the reporting period, withdrawals made during the reporting period, and any other matters that the authority requires to be reported to the account owner.

(17) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

**Source: L. 99:** Entire part added, p. 460, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1292, § 16, effective May 26. **L. 2010:** IP(1) amended, (SB 10-202), ch. 396, p. 1883, § 5, effective June 9.

**23-3.1-307. Limitations.** (1) Nothing in this part 3 shall be construed to:

(a) Give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;

(b) Guarantee that a designated beneficiary will be admitted to an education institution or be allowed to continue enrollment at or graduate from an education institution;

(c) Establish state residency for a beneficiary merely because of the designation as a beneficiary; or

(d) Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(2) Nothing in this part 3 shall establish any obligation of the state of Colorado or any agency or instrumentality of the state of Colorado to guarantee for the benefit of any owner, contributor to an account, or designated beneficiary any of the following:

(a) The return of any amounts contributed to an account;

(b) The rate of interest or other return on any account;

(c) The payment of interest or other return on any account; or

(d) Tuition rates or the cost of related education expenditures.

(3) Nothing in this part 3 shall be construed to indicate that the account is insured by the state of Colorado or that the principal deposited or investment return is guaranteed by the state of Colorado.

(3.5) Nothing in this part 3 shall be construed to create an indebtedness, a debt, or a liability of the state, nor shall the state be liable on the savings contracts, except to the extent of the amounts on deposit in the accounts, nor shall a savings contract constitute the giving, pledging, or loaning of the full faith and credit of the state.

(4) (Deleted by amendment, L. 2000, p.1294, § 16, effective May 26, 2000.)

**Source: L. 99:** Entire part added, p. 462, § 1, effective July 1; (4) amended, p. 223, § 3, effective March 29. **L. 2000:** (4) amended, p. 223, § 3, effective March 28; entire part amended, p. 1294, § 16, effective May 26.

**Editor's note:** Amendments to this section in Senate Bill 00-164 and House Bill 00-1276 were harmonized.

**23-3.1-307.1. Personal liability.** Neither the members of the board, employees or agents of the authority, nor any person executing savings contracts shall be liable personally on savings contracts or be subject to any personal liability or accountability as a result of the savings program.

**Source: L. 2000:** Entire part amended, p. 1295, § 16, effective May 26. **L. 2004:** Entire section amended, p. 574, § 27, effective July 1.

**23-3.1-307.3. Proceeds as trust funds.** Except as otherwise provided in this part 3, all moneys received pursuant to this part 3, including moneys received under savings contracts, shall be deemed to be trust funds to be held and applied solely as provided in this part 3. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this part 3, subject to such policies and guidelines as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing such obligations provides.

**Source: L. 2000:** Entire part amended, p. 1295, § 16, effective May 26.

**23-3.1-307.4. Claims of creditors - exemption.** Moneys credited to or expended from the savings trust fund by or on behalf of an account owner, depositor, or designated beneficiary of a savings contract made under this part 3, which contract has not been terminated, are exempt from all claims of creditors of the account owner, depositor, designated beneficiary, or the authority.

**Source: L. 2000:** Entire part amended, p. 1295, § 16, effective May 26.

**23-3.1-307.5. Confidentiality of records.** (1) Except as otherwise provided in this section, all data, information, and records relating to the college savings program are public records and are subject to inspection pursuant to the provisions of part 2 of article 72 of title 24, C.R.S.

(2) The following data, information, and records relating to the college savings program shall be kept confidential by the authority, and the authority shall deny the right of access to or inspection of such data, information, and records except as provided in subsection (3) of this section:

(a) Data, information and records relating to designated beneficiaries and contributors to an individual trust account or savings account including any records that reveal personally identifiable information about such individuals; except that the authority may disclose such information to an account owner regarding his or her own account;

(b) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by the authority; and

(c) Marketing plans and the results of market surveys conducted by the authority.

(3) Notwithstanding the provisions of subsection (2) of this section, the authority may disclose and may provide the right of access to or inspection of any data, information, or records to agents or representatives of professionals with whom the authority has contracted, to the department of revenue, or to the state treasurer, or to other third parties if the account owner and designated beneficiary have consented in writing to such disclosure.

(4) No cause of action shall arise against a person for disclosing confidential information in violation of subsection (2) of this section unless the act or omission giving rise to the cause of action was intentional or grossly negligent.

**Source: L. 2000:** Entire section added, p. 222, § 2, effective March 29; entire part amended, p. 1295, § 16, effective May 26. **L. 2004:** (3) amended, p. 574, § 28, effective July 1.



**Editor's note:** This section was added by House Bill 00-1276 and harmonized with Senate Bill 00-164.

**23-3.1-307.9. Policies for promotion and disclosure of program information.**

(1) The authority shall design a policy related to the promotion of the college savings program and a policy related to the disclosure of program-related information to account owners, depositors, and designated beneficiaries in a manner consistent with this part 3 and consistent with the requirements of section 529 of the internal revenue code in order to require that:

(a) Promotional material and program-related information disclose that no moneys invested in the college savings program are insured by the state of Colorado and that neither the principal deposited nor the investment returned is guaranteed by the state of Colorado; and

(b) Any fees paid from moneys collected pursuant to this part 3 are disclosed in promotional material and program-related information provided to the public and to account owners, depositors, and designated beneficiaries.

**Source: L. 2000:** Entire part amended, p. 1295, § 16, effective May 26.

**23-3.1-308. Residency.** Both resident and nonresident owners and designated beneficiaries shall be eligible to participate in and benefit from the program.

**Source: L. 99:** Entire part added, p. 463, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1296, § 16, effective May 26.

**23-3.1-309. Tax exemption.** Notwithstanding any other law to the contrary, the amount of any distribution to a designated beneficiary, as defined in section 529 (e) (1) of the internal revenue code, from an account established under this part 3 shall be exempt from state income taxation to the extent that this income is used to pay qualified higher education expenses of the designated beneficiary.

**Source: L. 99:** Entire part added, p. 463, § 1, effective July 1. **L. 2000:** Entire part amended, p. 1296, § 16, effective May 26.

**23-3.1-310. Job retraining cash fund - repeal.** (1) There is hereby created in the state treasury the job retraining cash fund, referred to in this section as the "fund". The fund shall consist of:

(a) Moneys transferred to the fund from the proceeds of the sale of the loan assets of the authority pursuant to section 23-3.1-205.4 (1) (c); and

(b) Any gifts, grants, or donations from private or public sources that the authority is hereby authorized to seek and accept.

(2) (a) (I) On or before October 1, 2010, the state treasurer shall deduct thirty-three thousand dollars from the fund and transfer such sum to the general fund.

(II) On or before July 1, 2011, the state treasurer shall deduct thirty-three thousand dollars from the fund and transfer such sum to the general fund.

(III) On or before July 1, 2012, the state treasurer shall transfer the balance of the fund to the general fund.

(b) The transfers to the general fund pursuant to this subsection (2) shall assist in defraying the costs to the state of implementing Senate Bill 10-202, enacted in 2010.

(3) All moneys in the fund not expended or encumbered, and all interest earned on the investment or deposit of moneys in the fund, shall remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year.

(4) This section is repealed, effective July 1, 2013.

**Source: L. 2010:** Entire section added, (SB 10-202), ch. 396, p. 1883, § 6, effective June 9.

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**PART 1****GENERAL PROVISIONS**

**23-3.3-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Commission" means the Colorado commission on higher education.

(1.5) "Cost of attendance at a nonpublic institution of higher education" means:

(a) Allowances specified by the commission for room and board and miscellaneous expenses, which shall be the same for nonpublic institutions of higher education as for a representative group of comparable state institutions, as determined by the commission; and

(b) An allowance for tuition and fees equal to the lesser of:

(I) The actual tuition and fees charged by the nonpublic institution of higher education; or

(II) One hundred percent of the combination of actual in-state tuition and fees charged by a representative group of comparable state institutions plus the general fund moneys allocated to support such comparable state institutions.

(2) "In-state student" means a student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a



state institution of higher education, but “in-state student” does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) “Institution” means an educational institution operating in this state which meets all of the following:

(a) Admits as regular students persons having a certification of graduation from a school providing secondary education or comparable qualifications and persons for enrollment in courses which they reasonably may be expected to complete successfully;

(b) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate in accordance with the provisions of article 59 of title 12, C.R.S.;

(c) (I) Provides an educational program for which it awards a bachelor’s degree;

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(d) Is not a branch program of an institution of higher education whose principal campus and facilities are located outside this state.

(3.5) “Nonpublic institution of higher education” shall have the same meaning as provided in section 23-3.7-102 (3).

(3.7) “Professional degree in theology” means a certificate signifying a person’s graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(4) “State institution” means an institution supported in whole or in part by general fund moneys.

(5) “Undergraduate” refers to any program leading toward a bachelor’s degree or associate degree or any nondegree program providing training for employment in a recognized occupation.

**Source:** **L. 79:** Entire article added, p. 824, § 1, effective June 19. **L. 81:** (3)(b) amended, p. 852, § 27, effective July 1. **L. 83:** (2) and (3)(d) amended, p. 788, § 1, effective July 1. **L. 86, 2nd Ex. Sess.:** (2) amended, p. 60, § 3, effective August 15. **L. 90:** (1.5) and (3.5) added, p. 1145, § 2, effective May 17. **L. 2009:** (3)(d) amended and (3.7) added, (HB 09-1267), ch. 348, p. 1823, § 2, effective June 1.

**Cross references:** For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 154, Session Laws of Colorado 1990. For the legislative declaration contained in the 2009 act amending subsection (3)(d) and adding subsection (3.7), see section 1 of chapter 348, Session Laws of Colorado 2009.

## ANNOTATION

**Law reviews.** For comment, “Colorado Christian University v. Weaver: Implications for the Establishment Clause Following the Death of the ‘Pervasively Sectarian’ Doctrine”, see 86 Den. U.L. Rev. 1091 (2009).

**Excluding students who attend a pervasively sectarian institution from state scholarships violates the first amendment of the U.S. constitution.** Colo. Christian Univ. v. Weaver, 534 F.3d 1245 (10th Cir. 2008).

**23-3.3-102. Assistance program authorized - procedure - audits.** (1) The general assembly hereby authorizes the commission to establish a program of financial assistance, to be operated during any school sessions, including summer sessions for students attending institutions.

(2) The commission shall determine, by guideline, the institutions eligible for participation in the program and shall annually determine the amount allocated to each institution.

(3) Each state institution shall administer a financial assistance program according to

policies and procedures established by the governing board of the institution. Each private institution of higher education, as defined in section 23-18-102 (9), that participates in the program of financial assistance established pursuant to this section shall administer a financial assistance program according to policies and procedures established by the governing board of the institution. Each participating nonpublic institution that is not a private institution of higher education shall administer a financial assistance program according to policies and procedures established by the commission. Each institution shall fund its assistance program using state moneys allocated to the institution and institutional moneys.

(3.5) Notwithstanding any provision of this article to the contrary, each participating institution shall adopt policies and procedures to allow a person who meets the following criteria to qualify for financial assistance through the financial assistance programs established pursuant to this article:

- (a) The person qualifies as an in-state student; and
  - (b) The person is enrolled at an institution that participates in the programs of financial assistance established pursuant to this article; and
  - (c) The person is enrolled in an approved program of preparation, as defined in section 22-60.5-102 (8), C.R.S., for principals.
- (4) Program disbursements shall be handled by the institution subject to audit and review.

(5) Upon commencement of participation in the program, no participating institution shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the program.

(6) In determining the amount allocated to each institution that is not a state institution or a nonpublic institution of higher education, the commission shall consider only that portion of financial need which would have existed were the institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution. In determining the amount allocated to each nonpublic institution of higher education, the commission shall base its determination upon the cost of attendance at a nonpublic institution of higher education.

(7) Each annual budget request submitted by the commission shall provide information on the proposed distribution of moneys among the programs developed under this article. Subsequent to final appropriation, the commission shall provide to the joint budget committee an allocation proposal specifically identifying the distributions among programs for the coming year. Expenditures in any program shall not exceed the allocation for that program by more than ten percent of such allocation, and the total appropriation for all student aid programs shall not be exceeded. The commission may require such reports from institutions as are necessary to fulfill the reporting requirements of this subsection (7) and to perform other administrative tasks.

(8) The state auditor or his or her designee shall audit, in accordance with state statute and federal guidelines, the program at any participating institution every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the program is being properly administered, but the audit shall be limited to the administration of the program at the participating institution. The state auditor may accept an audit of the program from an institution that is not a state institution from such institution's independent auditor. The cost of conducting audits of the program at an institution that is not a state institution shall be borne by such institution.

(9) Repealed.

**Source:** **L. 79:** Entire article added, p. 825, § 1, effective June 19. **L. 81:** (4) amended, p. 341, § 6, effective March 27. **L. 83:** Entire section R&RE, p. 788, § 2, effective July 1. **L. 90:** (4), (6), and (8) amended and (9) added, p. 1146, § 3, effective May 17. **L. 96:** (9) repealed, p. 1238, § 84, effective August 7. **L. 99:** (7) amended, p. 850, § 4, effective May 24. **L. 2003:** (6) amended, p. 913, § 17, effective August 6. **L. 2006:** (3.5) added, p. 1245, § 9, effective May 26; (8) amended, p. 1495, § 29, effective June 1. **L. 2010:** (2), (3), IP(3.5), (4), and (8) amended, (SB 10-003), ch. 391, p. 1845, § 19, effective June 9.



**Cross references:** For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 154, Session Laws of Colorado 1990. For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in the 2010 act amending subsections (2), (3), IP(3.5), (4), and (8), see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-3.3-103. Annual appropriations.** (1) The annual appropriations for student financial assistance under this article shall increase by at least the same percentage as the aggregate percentage increase of all general fund appropriations to institutions of higher education. Nothing in this section shall be construed to limit or impair the authority of the Colorado commission on higher education under section 23-1-105.

(2) The provisions of subsection (1) of this section concerning appropriations for student financial assistance under this article shall not apply to said appropriations for the 2010-11 fiscal year.

**Source:** **L. 89:** Entire section added, p. 976, § 2, effective July 1, 1990. **L. 2010:** Entire section amended, (HB 10-1383), ch. 361, p. 1714, § 2, effective June 7.

**23-3.3-104. Assistance to professional theology students prohibited.** (1) The policies and procedures established by the commission pursuant to section 23-3.3-102 (3) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

**Source:** **L. 2009:** Entire section added, (HB 09-1267), ch. 348, p. 1823, § 3, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

## PART 2

### TUITION ASSISTANCE

**23-3.3-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Dependent" means:

(a) Any natural child born or conceived before the period of time either of said child's parents served as a prisoner of war, was declared a person missing in action, served on state active duty or authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter;

(b) Any child lawfully adopted, or for which formal adoption procedures were commenced, prior to the time either of said child's adoptive parents served as a prisoner of war, was declared a person missing in action, served on state active duty or authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter; or

(c) Any child in the legal custody of or whose parent has parental responsibilities with respect to such child or for which proceedings for custody or the allocation of parental responsibilities were initiated by either of said child's parents prior to the time such parent served as a prisoner of war, was declared missing in action, served on state active duty or

authorized training duty as a Colorado national guardsman, or was permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter.

**Source:** **L. 79:** Entire article added, p. 825, § 1, effective June 19. **L. 97:** Entire section amended, p. 1014, § 21, effective August 6. **L. 98:** (1)(c) amended, p. 1410, § 75, effective February 1, 1999.

**Editor's note:** This section is similar to former §§ 23-5-111 (1) and 23-5-111.5 (1) as they existed prior to 1979.

**23-3.3-202. Program funding.** (1) Out of any moneys provided for the financial assistance program authorized by section 23-3.3-102, the commission shall first provide tuition assistance to individuals who qualify under the provisions of this part 2 or section 23-5-111.4, consistent with the provisions of subsection (2) of this section.

(2) The commission shall not allocate more than eight hundred thousand dollars under subsection (1) of this section for purposes of providing tuition assistance to members of the National Guard pursuant to section 23-5-111.4.

**Source:** **L. 79:** Entire article added, p. 826, § 1, effective June 19. **L. 2004:** Entire section amended, p. 1155, § 1, effective July 1. **L. 2009:** (2) amended, (HB 09-1290), ch. 242, p. 1095, § 1, effective August 5.

### **23-3.3-203. Veterans with service after August 5, 1964. (Repealed)**

**Source:** **L. 79:** Entire article added, p. 826, § 1, effective June 19. **L. 83:** (2) amended, p. 789, § 3, effective July 1. **L. 94:** Entire section repealed, p. 1797, §11, effective May 31.

**Editor's note:** This section was similar to former § 23-1-113 as it existed prior to its repeal in 1979 and prior to the repeal and reenactment of article 1 of this title in 1985.

**23-3.3-204. Dependents of prisoners of war and military personnel missing in action.** (1) As used in this section, unless the context otherwise requires, "prisoner of war" or "person missing in action" means any person who was a resident of the state of Colorado at the time such person entered the United States armed forces and who, while serving in said United States armed forces, has been declared to be a prisoner of war or a person missing in action, as established by the secretary of defense of the United States.

(2) Any dependent of a prisoner of war or a person missing in action, upon being accepted for enrollment into any institution, shall be permitted to pursue studies leading toward a bachelor's degree or a certificate of completion, free of tuition, for so long as said dependent achieves and maintains standards as set by the institution for its students generally, but said benefits shall not be extended beyond twelve academic quarters or eight academic semesters, as the case may be. Such dependents pursuing studies at an institution that is not a state institution shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year. The institution or the commission shall provide tuition assistance to such qualified students from appropriated student financial assistance funds.

(3) Any person qualifying as a dependent under this section shall not be deprived of the benefits provided by this section because of the return of a parent or the reported death of a parent.

(4) Benefits under this section shall be allowed only to those qualified dependents who are not eligible for educational benefits provided by the federal government.

**Source:** **L. 79:** Entire article added, p. 827, § 1, effective June 19. **L. 83:** (2) amended, p. 790, § 4, effective July 1.



**Editor's note:** This section is similar to former § 23-5-111 as it existed prior to 1979.

**23-3.3-205. Dependents of deceased or permanently disabled National Guardsman, law enforcement officer, or firefighter.** (1) (a) Any dependent of a person who died or was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado National Guardsman or any dependent of any person who has been permanently disabled or killed while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter, upon being accepted for enrollment into any state institution, shall be permitted to pursue studies leading toward his or her first bachelor's degree or certificate of completion, free of tuition and free of room and board charges of the institution, for so long as said dependent achieves and maintains a cumulative grade point average of 2.5 or above based upon a 4.0 scale, but said benefits shall not be extended beyond six years from the date of enrollment. Such dependents pursuing studies at a nonpublic institution of higher education within the state of Colorado shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year, and the average cost of room and board calculated for a full-time equivalent student at all state institutions for the previous year. Such dependents pursuing studies at an out-of-state institution of higher education shall be eligible for assistance not to exceed the average cost of undergraduate instruction calculated for a full-time equivalent student at a comparable state institution for the previous year. The commission shall provide tuition and, if appropriate, room and board assistance to such qualified students from appropriated student financial assistance funds.

(b) (Deleted by amendment, L. 2000, p. 1719, § 1, effective June 1, 2000.)

(1.5) Repealed.

(2) Benefits under this section shall be allowed only to those qualified dependents who are not eligible for educational benefits provided by the federal government.

(3) (a) An individual who was permanently disabled while on state active duty, federalized active duty, or authorized training duty as a Colorado National Guardsman is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is ineligible for retention as a member of the National Guard and is unable to engage in any substantial full-time gainful activity by reason of medically determinable physical or mental impairment which can be expected to result in death or which has lasted for a continuous period of not less than twelve months and exists at the time the dependent seeks entry into an institution.

(b) An individual who has been permanently disabled while acting to preserve the public peace, health, and safety in the capacity of police officer, sheriff, or other law enforcement officer or firefighter is permanently disabled for the purpose of determining eligibility of dependents to qualify for educational benefits if such individual is, as a result of the disability, unable to perform in the position to which he or she was regularly assigned at the time he or she became disabled.

**Source:** L. 79: Entire article added, p. 828, § 1, effective June 19. L. 81: (2) and (3) amended, p. 1093, § 1, effective May 28. L. 83: (1) and (3)(a) amended, p. 790, § 5, effective July 1. L. 91: (1) and (3)(a) amended, p. 548, § 2, effective May 18. L. 97: (1) and (3)(b) amended, p. 1014, § 22, effective August 6. L. 98: Entire section amended, p. 210, § 1, effective August 5. L. 2000: (1) amended and (1.5) repealed, p. 1719, §§ 1, 2, effective June 1.

**Editor's note:** This section is similar to former § 23-5-111.5 as it existed prior to 1979.

### PART 3

### STUDENT LOAN MATCHING

**23-3.3-301. Student loan matching program - funding.** Out of any moneys provided for the financial assistance program authorized by section 23-3.3-102 and remaining after

meeting the requirements of part 2 of this article, the commission shall provide the matching funds required for federal allocations to institutions for student loan programs.

**Source:** **L. 79:** Entire article added, p. 828, § 1, effective June 19. **L. 83:** Entire section amended, p. 791, § 6, effective July 1.

#### PART 4

#### WORK-STUDY PROGRAM

**Editor's note:** This part 4 is similar to part 2 of article 1 of this title as it existed prior to 1979.

**23-3.3-401. Work-study program established - requirements.** (1) The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide a work-study program of employment of qualifying students in good standing with the institution in which they are enrolled in positions that are directly under the control of the institution in which the student is enrolled or in positions with nonprofit organizations, governmental agencies, or for-profit organizations with which the institution may execute student employment contracts.

(2) Any in-state student who is enrolled or accepted for enrollment at an institution as an undergraduate may qualify for participation in the work-study program established pursuant to this section.

(3) Funds appropriated to the commission may also be used by the commission in conjunction with and to supplement funds for current job opportunities or to supplement or match funds made available through any other public or private program for financial assistance. A sum not to exceed thirty percent of the funds allocated by the commission for the work-study program may be used to provide funding on a basis other than financial need. A sum of not less than seventy percent of such money shall be used for students demonstrating financial need.

**Source:** **L. 79:** Entire article added, p. 829, § 1, effective June 19. **L. 83:** (2) amended, p. 791, § 7, effective July 1. **L. 98:** (1) amended, p. 11, § 1, effective March 6.

#### PART 5

#### SCHOLARSHIP AND GRANT PROGRAM

**23-3.3-501. Scholarship and grant program - funding.** The commission shall use a portion of any moneys remaining after meeting the requirements of parts 2 and 3 of this article to provide other programs of financial assistance based upon financial need, merit, talent, or other criteria established by the commission for students enrolled at institutions.

**Source:** **L. 79:** Entire article added, p. 829, § 1, effective June 19. **L. 83:** Entire section amended, p. 791, § 8, effective July 1.

#### PART 6

#### COLORADO EDUCATIONAL EXCHANGE PROGRAM

**23-3.3-600.1. Short title.** This part 6 shall be known and may be cited as the "Colorado Educational Exchange Program".

**Source:** **L. 89:** Entire section added, p. 978, § 1, effective April 12.

**23-3.3-601. Educational exchange program.** (1) The commission is directed to establish an educational exchange program consistent with the national student exchange



program. The commission shall identify those circumstances under which the waiving of the nonresident differential in tuition rates, on a reciprocal basis with other states or foreign countries, would enhance the educational experience for Colorado residents enrolled in state institutions. In relation thereto, the commission shall:

(a) Consult with the governing bodies and departments of state institutions in order to identify those classes and numbers of Colorado residents enrolled in said institutions whose educational experience would be enhanced by participation in said program; and

(b) Negotiate with the appropriate representatives of other states or foreign countries with the objective of establishing reciprocal agreements for waiving the nonresidential tuition differential for Colorado residents enrolled in state institutions who wish to enroll in the institutions of higher education in other states or foreign countries in exchange for the waiver of the nonresidential tuition differential for residents of said other states or foreign countries wishing to enroll in state institutions. The number of resident students participating in the educational exchange program shall be matched by an equal number of nonresident students enrolling at Colorado institutions of higher education.

(2) Repealed.

(3) No student may be a recipient or participant in the educational exchange program for more than one year.

(4) Residents of other states or foreign countries attending state institutions pursuant to said educational exchange program shall not be counted as nonresident students. Notwithstanding their presence in the state, such students shall not be permitted to apply the time spent in the educational exchange program toward satisfaction of residency requirements for tuition purposes.

(5) As used in this part 6, "Colorado resident" means a person who is classified, for tuition purposes, as an in-state student.

**Source:** **L. 79:** Entire article added, p. 829, § 1, effective June 19. **L. 87:** IP(1), (2), (3), and (4) amended, p. 847, § 1, effective March 12. **L. 89:** IP(1), (1)(b), and (4) amended and (2) repealed, pp. 978, 979, §§ 2, 3, effective April 12.

**Editor's note:** This section is similar to former § 23-1-301 as it existed prior to 1979.

## PART 7

### COLORADO NURSING SCHOLARSHIP PROGRAM

**23-3.3-701. Colorado nursing scholarship program.** (1) The general assembly hereby authorizes the commission to establish a nursing scholarship program. Such program shall be administered in accordance with policies and procedures established by the commission. The general assembly may appropriate annually an amount for the support of such program.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the scholarship program.

(3) It is the intent of the general assembly that, under the policies and procedures established by the commission under subsection (1) of this section for awarding nursing scholarships, preference be given to individuals who shall work in federal qualifying health clinics and underserved areas with nursing shortages throughout the state.

(4) and (5) Repealed.

**Source:** **L. 92:** Entire part added, p. 588, § 1, effective July 1. **L. 95:** (5) amended, p. 123, § 1, effective March 31. **L. 96:** (4) amended, p. 1238, § 85, effective August 7. **L. 99:** (4) repealed, p. 850, § 5, effective May 24. **L. 2000:** (5) repealed, p. 1113, § 1, effective May 26.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

## PART 8

## EARLY CHILDHOOD PROFESSIONAL LOAN REPAYMENT PROGRAM

**23-3.3-801 to 23-3.3-803. (Repealed)**

**Editor's note:** (1) This part 8 was added in 2001. For amendments to this part 8 prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) (a) Section 23-3.3-803 provided for the repeal of this part 8, effective July 1, 2007. (See L. 2001, p. 875.)

(b) Prior to the repeal of this part 8 on July 1, 2007, House Bill 07-1336 provided for the repeal of § 23-3.3-802, effective May 10, 2007. (See L. 2007, p. 756.)

## PART 9

## TEACH COLORADO GRANT INITIATIVE

**23-3.3-901. Teach Colorado grant initiative created - award of grants - legislative declaration.** (1) (a) The general assembly hereby finds and declares that one of the most important components of a high-quality education is a good teacher. In Colorado, there is a shortage of public school teachers employed in high-need areas such as mathematics, science, special education, English language acquisition, and world languages. Strengthening Colorado's pipeline of licensed teachers in high-need areas will help to provide every student in every public school with the teacher he or she needs to thrive and will contribute to raising the standard of living in Colorado.

(b) Therefore, the general assembly determines that it is in the best interest of Colorado's students to encourage institutions of higher education to create scholarships for students in approved teacher preparation programs who excel in high-need content areas and who demonstrate an interest in or commitment to teaching as a career.

(2) As used in this part 9, unless the context otherwise requires:

(a) "Approved educator preparation program" means an approved educator preparation program as defined in section 23-1-121 (1) (a).

(b) "BOCES" means a board of cooperative services as defined in section 22-5-103 (2), C.R.S.

(c) "Department" means the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(d) "Institution of higher education" means a public institution of higher education operating in this state that is supported in whole or in part by general fund moneys.

(e) "School district" means a school district in Colorado organized and existing pursuant to law. "School district" does not include a junior college district.

(3) (a) There is hereby created in the department the teach Colorado grant initiative to provide moneys for use in reducing the financial barriers to entering the teaching profession, supporting high-ability students who have demonstrated a commitment to the teaching profession, and attracting high-ability students in high-need content areas into the teaching profession. The commission shall adopt guidelines pursuant to which an institution of higher education may submit an application for a grant from the teach Colorado grant initiative to use in funding scholarships to assist persons in entering the teaching profession. At a minimum, an institution's application shall include a description of the scholarships, including student eligibility, identification of the high-need content areas or other high-need areas that will be addressed through the award of scholarships, expectations that will be imposed on the recipients, and the amount of scholarship money to be awarded to each recipient.

(b) In administering the teach Colorado grant initiative, the department shall annually collaborate with the department of education to determine the high-need content areas, which may include, but need not be limited to, mathematics, science, special education, English language acquisition, and world languages. The department shall annually publicize



to the institutions of higher education the content areas that are considered to be high-need areas.

(c) In designing a scholarship, an institution of higher education that is seeking funding from the teach Colorado grant initiative may include students who are seeking a baccalaureate degree and have enrolled in an approved teacher preparation program, students who demonstrate excellence in a high-need content area and are considering enrolling in an approved teacher preparation program, and students who have completed a baccalaureate degree or higher and have enrolled or are considering enrolling in an approved teacher preparation program. Scholarship moneys shall not be paid on behalf of a student until the student has enrolled in an approved teacher preparation program.

(d) The commission shall adopt such additional guidelines as may be necessary for administration of the teach Colorado grant initiative, including but not limited to the application process, criteria for awarding grants in addition to those specified in subsection (4) of this section, and the amount of grants to be awarded.

(4) In awarding grants through the teach Colorado grant initiative, the department shall give special consideration to scholarships that:

(a) Are designed to create a partnership between two institutions of higher education, one of which does not have an approved educator preparation program but has students who have demonstrated academic excellence in one or more high-need content areas and have expressed an interest in entering the teaching profession;

(b) Are designed to create a partnership between the institution of higher education and one or more school districts or BOCES that have a shortage of teachers in high-need content areas;

(c) Are designed to meet the needs of rural or high-poverty schools, school districts, or BOCES, as identified by the department of education;

(d) Are designed to assist honorably discharged veterans of the armed forces in entering the teaching profession; or

(e) Require each scholarship recipient to commit to completing his or her student teaching in a rural or high-poverty school, school district, or BOCES, as identified by the department of education.

(5) The amount of a scholarship awarded to an individual student by an institution of higher education pursuant to a teach Colorado grant shall not exceed the amount of in-state tuition charged by the institution for thirty semester hours of credit.

(6) On or before February 1, 2009, and on or before February 1 each year thereafter, the commission shall report to the education committees of the senate and the house of representatives, or any successor committees, concerning the number of institutions of higher education receiving teach Colorado grants pursuant to this section, the amount of the grants awarded, the number of students receiving scholarships through grants awarded pursuant to this section, and a general summary of the scholarships funded through grants awarded pursuant to this section.

(7) In addition to any general funds appropriated by the general assembly to the department for the implementation of the teach Colorado grant initiative, the department is authorized to seek and accept gifts, grants, and donations from private and public sources for the implementation of the teach Colorado grant initiative.

**Source:** **L. 2008:** Entire part added, p. 723, § 1, effective May 12. **L. 2009:** (4) amended, (SB 09-062), ch. 193, p. 838, § 1, effective April 30. **L. 2011:** (2)(a) and (4)(a) amended, (SB 11-245), ch. 201, p. 850, § 16, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsections (2)(a) and (4)(a), see section 1 of chapter 201, Session Laws of Colorado 2011.

ARTICLE 3.5

Colorado Student Incentive  
Grant Program

23-3.5-101.	Legislative declaration.		ited.
23-3.5-102.	Definitions.	23-3.5-104.	Audit and review.
23-3.5-103.	Grant program authorized - administration.	23-3.5-105.	Determination of eligibility. (Repealed)
23-3.5-103.5.	Assistance to professional theology students prohib-	23-3.5-106.	Determination of invalidity.

**23-3.5-101. Legislative declaration.** The general assembly hereby declares that it is the policy of this state, within appropriations available for such purpose, to provide assistance to Colorado in-state students attending institutions of higher education, by utilizing federal and other moneys available for such purpose.

**Source: L. 77:** Entire article added, p. 1104, § 1, effective July 1.

ANNOTATION

**Applied** in *Americans United for Separation of Church & State Fund, Inc. v. State*, 648 P.2d 1072 (Colo. 1982).

**23-3.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Commission” means the Colorado commission on higher education.

(2) “In-state student” means an undergraduate student at an institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, but “in-state student” does not include a member of the armed forces of the United States or his dependents who are eligible to obtain in-state tuition status upon moving to Colorado on a permanent change-of-station basis until such individual meets the one-year domicile requirement of section 23-7-102 (5).

(3) (a) “Institution of higher education” means an educational institution operating in this state that:

(I) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(II) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a regular certificate from the private occupational school division in accordance with the provisions of article 59 of title 12, C.R.S., or is regulated or approved pursuant to any other statute;

(III) (A) Provides an educational program for which it awards a bachelor’s degree; or

(B) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(C) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or

(D) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;

(IV) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years.

(b) The term “institution of higher education” does not include a branch program of an institution of higher education whose principal campus and facilities are located outside this



state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 59 of title 12, C.R.S.

(4) "Nonpublic institution" means an educational institution which receives no support from general fund moneys in support of its operating costs.

(5) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:

- (a) Devotional in nature or designed to induce religious faith; and
- (b) Offered by an institution as preparation for a career in the clergy.

**Source:** **L. 77:** Entire article added, p. 1104, § 1, effective July 1. **L. 81:** (3)(a)(II) and (3)(a)(III)(D) amended, p. 852, § 28, effective July 1. **L. 86, 2nd Ex. Sess.:** (2) amended, p. 60, § 4, effective August 15. **L. 90:** (3)(a)(II) amended, p. 1172, § 32, effective July 1. **L. 99:** IP(3)(a) and (3)(b) amended and (3)(a)(IV) added, p. 74, §§ 1, 2, effective July 1, 2000. **L. 2009:** (3)(b) amended and (5) added, (HB 09-1267), ch. 348, p. 1823, § 4, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act amending subsection (3)(b) and adding subsection (5), see section 1 of chapter 348, Session Laws of Colorado 2009.

#### ANNOTATION

**Applied** in *Americans United for Separation of Church & State Fund, Inc. v. State*, 648 P.2d 1072 (Colo. 1982).

**23-3.5-103. Grant program authorized - administration.** (1) The general assembly hereby authorizes the commission to establish a grant program for in-state students having financial need, to be administered in accordance with federal law and regulations and guidelines established by the commission.

(2) The commission shall determine, by guideline, the institutions of higher education eligible for participation in the grant program, and each eligible institution of higher education shall recommend in-state students to the commission for receipt of a grant.

(3) Grant program disbursements shall be handled by the institution of higher education, subject to audit and review as provided in section 23-3.5-104.

(4) Upon commencement of participation in the grant program, no participating institution of higher education shall decrease the amount of its own funds spent for student aid below the amount so spent prior to participation in the grant program.

(5) In determining the amount of a grant, the commission shall consider only that portion of an in-state student's financial need which would have existed were the nonpublic institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution of higher education.

**Source:** **L. 77:** Entire article added, p. 1105, § 1, effective July 1.

#### ANNOTATION

**Applied** in *Americans United for Separation of Church & State Fund, Inc. v. State*, 648 P.2d 1072 (Colo. 1982).

**23-3.5-103.5. Assistance to professional theology students prohibited.** (1) The guidelines established by the commission pursuant to section 23-3.5-103 (1) shall include:

(a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student

from a federal program, including but not limited to Title IV of the federal “Higher Education Act of 1965”, 20 U.S.C. sec. 1070, as amended; and

(b) A requirement that an institution or nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.

**Source: L. 2009:** Entire section added, (HB 09-1267), ch. 348, p. 1824, § 5, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

**23-3.5-104. Audit and review.** The state auditor or his designee shall audit, in accordance with federal and commission guidelines, the grant program at any participating institution of higher education every other year to review residency determinations, needs analyses, awards, payment procedures, and such other practices as may be necessary to ensure that the grant program is being properly administered, but such audit shall be limited to the administration of the grant program at the participating institution of higher education. The state auditor may accept an audit of the program from an institution not supported in whole or in part by the general fund from the institution’s independent auditor. The cost of conducting audits of the program at an institution not supported in whole or in part by the general fund shall be borne by the institution.

**Source: L. 77:** Entire article added, p. 1105, § 1, effective July 1. **L. 81:** Entire section amended, p. 342, § 7, effective March 27. **L. 2006:** Entire section amended, p. 1496, § 30, effective June 1.

#### ANNOTATION

**Applied** in *Americans United for Separation of Church & State Fund, Inc. v. State*, 648 P.2d 1072 (Colo. 1982).

#### **23-3.5-105. Determination of eligibility. (Repealed)**

**Source: L. 77:** Entire article added, p. 1106, § 1, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1267), ch. 348, p. 1827, § 12, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act repealing this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

**23-3.5-106. Determination of invalidity.** A final judicial determination that this article is invalid as applied to any individual institution of higher education or student shall not operate to terminate any grant provided pursuant to this article to any other institution of higher education or student.

**Source: L. 77:** Entire article added, p. 1106, § 1, effective July 1.



ARTICLE 3.6

Health Care Professionals Loan Programs

PART 1

23-3.6-103.

Reporting.

23-3.6-104.

Repeal of part.

NURSING TEACHER LOAN  
FORGIVENESS PILOT PROGRAM

PART 2

STATE HEALTH CARE PROVIDER  
LOAN REPAYMENT PROGRAM

23-3.6-101.

Definitions.

23-3.6-102.

Nursing teacher loan forgive-  
ness pilot program - admin-  
istration - fund - conditions.

23-3.6-201 to

23-3.6-205.

(Repealed)

PART 1

NURSING TEACHER  
LOAN FORGIVENESS PILOT PROGRAM

**23-3.6-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) “Collegeinvest” means the authority transferred to the department of higher education pursuant to section 23-3.1-203.

(2) “Participating private institution of higher education” means a college or university that is participating in the college opportunity fund program created in article 18 of this title.

(3) “Program” means the nursing teacher loan forgiveness pilot program authorized pursuant to section 23-3.6-102.

(4) “Public institution of higher education” means a postsecondary educational institution established and existing pursuant to law as an agency of the state of Colorado and supported wholly or in part by tax revenues.

(5) “Qualified loan” means a student loan incurred while earning a master’s degree in nursing or a doctoral degree in nursing or related field from a public or participating private institution of higher education.

(6) “Qualified position” means at least half-time employment by a public or participating private institution of higher education, of which a majority of the time includes the classroom, clinical, and lab instruction required to earn a degree or certificate in nursing.

**Source:** **L. 2006:** Entire article added, p. 1542, § 1, effective June 1. **L. 2007:** IP amended, p. 2109, § 4, effective June 4. **L. 2010:** (6) amended, (SB 10-058), ch. 144, p. 490, § 1, effective August 11.

**23-3.6-102. Nursing teacher loan forgiveness pilot program - administration - fund - conditions.** (1) (a) The general assembly hereby authorizes collegeinvest to develop and maintain a nursing teacher loan forgiveness pilot program for implementation beginning in the fall semester of the 2006-07 academic year. The program shall provide for payment of up to twenty thousand dollars for all or part of the principal of and interest on a qualified loan if the person is hired for a qualified position and stays in a qualified position for a period of not less than five consecutive academic years after the person earned an advanced degree in nursing. Repayment of loans through the program may be made using moneys in the nursing teacher loan forgiveness fund, created in paragraph (b) of this subsection (1), or moneys allocated to the program by collegeinvest. Collegeinvest is authorized to receive and expend gifts, grants, and donations or moneys appropriated by the general assembly for the purpose of implementing the program. On and after May 19, 2011, collegeinvest shall not enter into any new contracts to provide loan repayments to or for the benefit of a nursing teacher pursuant to this section.

(b) There is hereby created in the state treasury the nursing teacher loan forgiveness fund, which shall consist of all moneys appropriated by the general assembly for the program and any gifts, grants, and donations received for said purpose. Moneys in the fund

are hereby continuously appropriated to the department of higher education for the program. Any moneys in the fund not expended for the purpose of this part 1 may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund; except that, on June 30, 2011, the state treasurer shall transfer any balance in the fund in excess of two hundred twenty-seven thousand dollars from the fund to the general fund, and collegeinvest shall use the two hundred twenty-seven thousand dollars remaining in the fund on June 30, 2011, to provide funding for contracts entered into by or on behalf of collegeinvest prior to May 19, 2011, and to cover its costs in administering the program. Collegeinvest shall notify the state treasurer when all obligations under contracts entered into by or on behalf of collegeinvest prior to May 19, 2011, are satisfied, and upon such notification, the state treasurer shall transfer any remaining balance in the fund to the general fund.

(2) In addition to any qualifications specified by collegeinvest, to qualify for the program, a nursing teacher shall:

- (a) Earn a master's or doctoral degree in nursing;
- (b) Be liable for an outstanding balance on a qualified loan;
- (c) Agree to teach in a qualified position for a period of not less than five consecutive academic years, beginning within four years after completion of the advanced degree specified in paragraph (a) of this subsection (2);
- (d) Teach in a qualified position for not less than five consecutive academic years, beginning within four years after completion of the advanced degree specified in paragraph (a) of this subsection (2); and
- (e) Agree that, if the nursing teacher leaves the qualified position prior to teaching for five consecutive academic years, the nursing teacher shall be liable to repay the amount of the qualified loan paid or forgiven through the program plus interest; except that, if the nursing teacher leaves the qualified position involuntarily, the nursing teacher shall not be liable to repay the amount paid or forgiven, but shall be responsible for paying the amount remaining due on a qualified loan.

(3) The program shall provide that, following each of the five consecutive academic years that the nursing teacher is employed in a qualified position, the lesser of one-fifth or four thousand dollars of the nursing teacher's qualified loan shall be paid or forgiven.

**Source:** L. 2006: Entire article added, p. 1543, § 1, effective June 1. L. 2007: (1)(b) amended, p. 2109, § 5, effective June 4. L. 2010: (2)(c) and (2)(d) amended, (SB 10-058), ch. 144, p. 490, § 2, effective August 11. L. 2011: (1) amended, (HB 11-1281), ch. 180, p. 688, § 9, effective May 19.

**23-3.6-103. Reporting.** On or before December 15, 2008, and on or before December 15 every two years thereafter, collegeinvest shall prepare a report that includes, but is not limited to, the number of participants in the program, the amount of funds applied toward loan repayment or forgiveness, and the sources of those funds. Collegeinvest shall provide the report to the education committees of the senate and the house of representatives, or any successor committees. Said committees shall review the report and may recommend legislation on the program.

**Source:** L. 2006: Entire article added, p. 1544, § 1, effective June 1.

**23-3.6-104. Repeal of part.** This part 1 is repealed, effective July 1, 2018.

**Source:** L. 2006: Entire article added, p. 1544, § 1, effective June 1. L. 2007: Entire section amended, p. 2109, § 6, effective June 4.



PART 2

STATE HEALTH CARE PROVIDER  
LOAN REPAYMENT PROGRAM

23-3.6-201 to 23-3.6-205. (Repealed)

**Source: L. 2009:** Entire part repealed, (HB 09-1111), ch. 396, p. 2141, § 3, effective June 2.

**Editor’s note:** This part 2 was added in 2007 and was not amended prior to its repeal in 2009. For the text of this part 2 prior to 2009, consult the 2008 Colorado Revised Statutes. The provisions of this part 2 were relocated to part 7 of article 20.5 of title 25. For the location of specific provisions, see the editor’s notes following each section in said part 7.

ARTICLE 3.7

Tuition Assistance Grant Program

23-3.7-101.	Legislative declaration.		institution. (Repealed)
23-3.7-102.	Definitions.	23-3.7-105.	Audit.
23-3.7-103.	Tuition assistance grant pro- gram - authorization - ad- ministration.	23-3.7-106.	Rules.
		23-3.7-107.	Gifts and bequests to com- mission for grant program.
23-3.7-104.	Determination of eligibility of		

**23-3.7-101. Legislative declaration.** The general assembly hereby finds, determines, and declares: That the costs of education at Colorado’s public and nonpublic institutions of higher education have increased dramatically in recent years; that while the increased costs of education at public institutions have been defrayed by state support of such institutions Coloradans wishing to attend nonpublic institutions of higher education in the state face a serious financial burden; that the decline of Colorado’s nonpublic institutions of higher education due to an absence of students able to bear the costs of education would increase the number of students seeking admission to state-funded institutions; and that the preservation of Colorado’s traditional diversity in higher education and access to a variety of educational opportunities for Coloradans of all backgrounds and resources require that the general assembly act to assist in-state students in meeting the increased costs of education at Colorado’s nonpublic institutions of higher education.

**Source: L. 86:** Entire article added, p. 824, § 1, effective July 1.

**23-3.7-102. Definitions.** As used in this article, unless the context otherwise requires:

- (1) “Commission” means the Colorado commission on higher education.
- (2) “In-state student” means a student at a nonpublic institution of higher education who meets the criteria established by article 7 of this title for classification as an in-state student at a state institution of higher education, who is pursuing a degree, and who is a graduate of a high school located in Colorado. “In-state student” includes a member of the armed forces of the United States or his dependents.
- (3) “Nonpublic institution of higher education” means an institution of higher education operating in this state that:
  - (a) Receives no support from general fund moneys in support of its operating costs;
  - (b) Admits as regular students only persons having a certification of graduation from a school providing secondary education or the recognized equivalent of such a certificate;
  - (c) Is accredited by a nationally recognized accrediting agency or association and, in the case of private occupational schools, holds a certificate of approval from the private occupational school division in accordance with the provisions of article 59 of title 12, C.R.S., or is regulated or approved pursuant to any other statute;

- (d) (I) Provides an educational program for which it awards a bachelor's degree or a graduate degree; or
  - (II) Provides not less than a two-year program that is acceptable for full credit towards such a degree; or
  - (III) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or
  - (IV) Is a private occupational school providing not less than a six-month program of training to prepare students for gainful employment in a recognized occupation;
  - (e) Was in operation in this state as of January 1, 1999, or has been in operation in this state for a minimum of ten academic years; and
  - (f) Is not a branch program or campus of an institution of higher education whose principal campus and facilities are located outside this state, unless the institution operating the branch program has received a certificate of approval from the private occupational school division in accordance with the provisions of article 59 of title 12, C.R.S.
- (4) "Professional degree in theology" means a certificate signifying a person's graduation from a degree program that is:
- (a) Devotional in nature or designed to induce religious faith; and
  - (b) Offered by an institution as preparation for a career in the clergy.

**Source:** **L. 86:** Entire article added, p. 824, § 1, effective July 1. **L. 99:** (3) amended, p. 75, § 3, effective July 1, 2000. **L. 2009:** (3)(f) amended and (4) added, (HB 09-1267), ch. 348, p. 1824, § 6, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act amending subsection (3)(f) and adding subsection (4), see section 1 of chapter 348, Session Laws of Colorado 2009.

### **23-3.7-103. Tuition assistance grant program - authorization - administration.**

- (1) The general assembly hereby authorizes the commission to establish and administer a tuition assistance grant program within the scholarship and grant program for in-state students attending nonpublic institutions of higher education in this state.
- (2) An in-state student may apply to an eligible nonpublic institution of higher education for a grant at any time after his or her acceptance by such nonpublic institution of higher education. The commission shall award grants, out of moneys in the fund created in section 23-3.7-107, for such students to such institutions in accordance with criteria established by the commission. In establishing this criteria the commission shall include, but not be limited to, the consideration of need and merit. The criteria shall also include:
  - (a) A prohibition against the awarding of any financial assistance pursuant to this article to a student who is pursuing a professional degree in theology; except that the prohibition described in this section shall not apply to financial assistance that is awarded to a student from a federal program, including but not limited to Title IV of the federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070, as amended; and
  - (b) A requirement that a nonpublic institution of higher education that seeks to award financial assistance to a student pursuant to this article certify that the student is not pursuing a professional degree in theology.
- (3) Grants, except in the case of part-time students, shall be for not more than one thousand five hundred dollars per academic year, and no student may receive more than one grant per academic year.
- (4) Students enrolled on less than a full-time but more than a half-time basis shall be eligible for prorated grants as determined by the commission.
- (5) A grant shall be awarded for not more than four academic years of credit, which shall be completed within twelve years of the initial award of such grant. Such grant may be renewed annually in accordance with criteria established by the commission in subsection (2) of this section and shall include the consideration of the student's performance and circumstances since the initial award of such grant.



(6) Grants shall be transmitted to nonpublic institutions of higher education on behalf of in-state students at the time of registration by the students.

(7) If an in-state student discontinues attendance at a nonpublic institution of higher education before the end of the academic term for which a grant has been transmitted on his behalf, the institution shall remit the unused portion of such student's grant to the commission as determined by the commission.

**Source:** **L. 86:** Entire article added, p. 825, § 1, effective July 1. **L. 2009:** (2) amended, (HB 09-1267), ch. 348, p. 1825, § 7, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act amending subsection (2), see section 1 of chapter 348, Session Laws of Colorado 2009.

#### **23-3.7-104. Determination of eligibility of institution. (Repealed)**

**Source:** **L. 86:** Entire article added, p. 826, § 1, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1267), ch. 348, p. 1827, § 12, effective June 1.

**Cross references:** For the legislative declaration contained in the 2009 act repealing this section, see section 1 of chapter 348, Session Laws of Colorado 2009.

**23-3.7-105. Audit.** The state auditor, in cooperation with the commission, shall establish procedures for biannual audits at institutions participating in the grant program.

**Source:** **L. 86:** Entire article added, p. 826, § 1, effective July 1.

**23-3.7-106. Rules.** The commission shall promulgate such rules as may be necessary for the implementation of this article.

**Source:** **L. 86:** Entire article added, p. 826, § 1, effective July 1.

**23-3.7-107. Gifts and bequests to commission for grant program.** The commission is authorized to receive gifts, grants, and bequests of money from any private source to be credited to the tuition assistance grant program cash fund, which is hereby created. The commission shall hold such funds, invest them, and use the principal thereof or the interest thereon in the awarding of grants pursuant to the provisions of this article.

**Source:** **L. 86:** Entire article added, p. 826, § 1, effective July 1.

### **ARTICLE 3.8**

#### **Teacher Tuition Scholarship Loan Program**

#### **23-3.8-101 to 23-3.8-107. (Repealed)**

**Source:** **L. 94:** Entire article repealed, p. 1797, § 12, effective May 31.

**Editor's note:** This article was added in 1991. For amendments to this article prior to its repeal in 1994, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**ARTICLE 3.9****Teacher Loan Forgiveness Program**

23-3.9-101.	Definitions.		fund - conditions.
23-3.9-102.	Teacher loan forgiveness pilot program - administration -	23-3.9-103.	Reporting.
		23-3.9-104.	Repeal of article.

**23-3.9-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Approved program of preparation" means a program of study for preparation that is approved by the Colorado commission on higher education pursuant to section 23-1-121 and that upon completion leads to a recommendation for licensure by an accepted institution of higher education in Colorado.

(2) "Commission" means the Colorado commission on higher education.

(3) "Facility school" means an approved facility school as defined in section 22-2-402 (1), C.R.S.

(3.5) "High-poverty school" means a public school at which the number of pupils enrolled who are eligible for free lunch pursuant to the provisions of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., is at least equal to or greater than twenty-eight percent of the school's student enrollment.

(4) "Qualified position" means:

(a) A teaching position in a high-poverty school that is a Colorado elementary public school in a rural school district or in a facility school that is in a rural school district; or

(b) A teaching position in math, science, special education, or linguistically diverse education in a Colorado public school or a facility school.

(5) "Rural school district" means a school district that does not include within its geographic boundaries a municipality exceeding five thousand persons and that is characterized by sparse, widespread populations.

**Source:** **L. 2001:** Entire article added, p. 1503, § 30, effective June 8. **L. 2005:** (3.5) and (5) added and (4) amended, p. 533, § 1, effective August 8. **L. 2008:** (3) amended, p. 1409, § 64, effective May 27; (5) amended, p. 1627, § 1, effective August 5.

**23-3.9-102. Teacher loan forgiveness pilot program - administration - fund - conditions.** (1) (a) The general assembly hereby authorizes the commission to develop and maintain a teacher loan forgiveness pilot program for implementation beginning in the 2001-02 academic year for payment of all or part of the principal and interest of the educational loans of a first-year teacher who is hired for a qualified position. Beginning in the 2004-05 academic year, the commission is authorized to extend the teacher loan forgiveness pilot program to include payment of all or part of the principal and interest of the educational loans of a teacher who is hired to teach in a qualified position after the teacher's first year of teaching. Repayment of loans through the teacher loan forgiveness pilot program may be made using moneys in the teacher loan forgiveness fund, created in paragraph (b) of this subsection (1), or moneys allocated to the program by collegeinvest. The commission is authorized to receive and expend gifts, grants, and donations for the teacher loan forgiveness pilot program. Only graduates of institutions of higher education whose loans have collegeinvest eligibility may receive repayment of their loans using moneys allocated to the program by collegeinvest.

(b) There is hereby created the teacher loan forgiveness fund, which shall consist of all moneys appropriated thereto by the general assembly for the teacher loan forgiveness pilot program and any gifts, grants, and donations received for said purpose. Moneys in the fund are hereby continuously appropriated to the department of higher education for the teacher loan forgiveness pilot program. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) In addition to any qualifications specified by the commission, to qualify for the teacher loan forgiveness pilot program, a teacher shall:



- (a) Graduate from an approved program of preparation;
  - (b) Meet licensure requirements pursuant to section 22-60.5-201 (1) (b) or (1) (c) or 22-60.5-210, C.R.S.;
  - (c) (I) Demonstrate professional competencies consistent with state board of education rules in the subject matter in which the teacher obtains a qualified position; or  
(II) Be fully qualified under a training program approved by a federal court or agency or the state department of education;
  - (d) (I) Contract for the teacher's first year of teaching in a qualified position, as defined in section 23-3.9-101 (4) (b), no earlier than June 2001 and no later than the end of the 2008-09 academic year; or  
(II) If the teacher is not a first-year teacher, contract to teach in a qualified position, as defined in section 23-3.9-101 (4) (b), no earlier than June 2004 and no later than the end of the 2008-09 academic year; or  
(III) Initially apply to participate in the program and teach in a qualified position, as defined in section 23-3.9-101 (4) (a), on or after June 1, 2005, and no later than the end of the 2012-13 academic year;
  - (e) Work at least half-time in a qualified position if employed in a rural school district, or, beginning with the fall semester of the 2005-06 academic year, full-time in a qualified position if employed in a school district other than a rural school district; and
  - (f) Be liable for an outstanding balance on a collegeinvest loan or a loan through a lender with an agreement with collegeinvest to offer loans.
- (3) A teacher who qualifies under subsection (2) of this section may be eligible for up to two thousand dollars in loan forgiveness for the first year of teaching in a qualified position and up to two thousand dollars in loan forgiveness for each of the next three years of teaching in a qualified position.
- (3.5) Notwithstanding the provisions of subsection (3) of this section, a teacher who qualifies under subsection (2) of this section, initially applies to participate in the program in any of academic years 2009-10 to 2012-13, and teaches in a high-poverty elementary school in a rural school district shall be eligible for up to four thousand dollars in loan forgiveness for each of the first two years of teaching in a qualified position and up to one thousand dollars in loan forgiveness for each of the next two years of teaching in a qualified position.
- (4) If a teacher qualifies for the teacher loan forgiveness pilot program through employment in a high-poverty elementary school in a rural school district and in a subsequent academic year the school no longer meets the criteria to be classified as a high-poverty elementary school in a rural school district, the teacher may continue to participate in the teacher loan forgiveness pilot program if he or she continues to teach at the same school.
- (5) If a teacher qualifies for the teacher loan forgiveness pilot program through employment in a high-poverty elementary school in a rural school district and subsequently transfers to a nonqualifying school, he or she forfeits participant status under this section.
- (6) The department of education shall annually identify the public schools in the state that qualify as high-poverty elementary schools in rural school districts.

**Source:** L. 2001: Entire article added, p. 1503, § 30, effective June 8. L. 2002: (2)(c)(II) amended, p. 1794, § 57, effective June 7. L. 2004: (1)(a) and (2)(d) amended, p. 443, § 1, effective April 13; (1)(a) amended, p. 574, § 30, effective July 1. L. 2005: (2)(c)(II) and (2)(d) amended and (2)(e), (2)(f), (4), (5), and (6) added, p. 534, §§ 2, 3, effective August 8. L. 2008: (1)(b) and (2)(d)(III) amended and (3.5) added, p. 1627, § 2, effective August 5.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 04-1350 and House Bill 04-1039 were harmonized.

**23-3.9-103. Reporting.** On or before December 15, 2002, and on or before each December 15 thereafter, the commission shall prepare an annual report that includes, but is not limited to, the number of participants in the program, the amount of funds applied

toward loan forgiveness, and the sources of those funds. The commission shall provide notice to the education committees of the senate and the house of representatives that the report is available to the members of the committees upon request.

**Source:** **L. 2001:** Entire article added, p. 1504, § 30, effective June 8. **L. 2005:** Entire section amended, p. 862, § 5, effective June 1.

**23-3.9-104. Repeal of article.** This article is repealed, effective July 1, 2019.

**Source:** **L. 2001:** Entire article added, p. 1504, § 30, effective June 8. **L. 2005:** Entire section amended, p. 535, § 4, effective August 8. **L. 2008:** Entire section amended, p. 1628, § 3, effective August 5.

ARTICLE 4

Trafficking in Academic Materials

23-4-101.	Legislative declaration.		als - advertising.
23-4-102.	Definitions.	23-4-104.	Injunctions.
23-4-103.	Preparation, sale, and distribution of academic materi-	23-4-105.	Other remedies.
		23-4-106.	Construction of article.

**23-4-101. Legislative declaration.** The general assembly hereby declares that the practice of trafficking in academic materials, commonly referred to as ghostwriting, serves no legitimate purpose and tends to undermine the academic process to the detriment of students, the academic community, and the public and that such practice should not be permitted to continue.

**Source:** **L. 73:** p. 1346, § 1. **C.R.S. 1963:** § 124-28-1.

**23-4-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Person” means any individual, partnership, corporation, or association.

(2) “Prepare” means to put into condition for intended use. “Prepare” does not include the mere typing or assembling of papers nor the mere furnishing of information or research.

**Source:** **L. 73:** p. 1346, § 1. **C.R.S. 1963:** § 124-28-2.

**23-4-103. Preparation, sale, and distribution of academic materials - advertising.**

(1) No person shall prepare, offer to prepare, cause to be prepared, sell, or distribute any term paper, thesis, dissertation, or other written material for another person for a fee or other compensation with the knowledge, or under circumstances in which he should reasonably have known, that such term paper, thesis, dissertation, or other written material is to be submitted by any other person for academic credit at any public or private college, university, or other institution of higher education in this state.

(2) No person shall make or disseminate, with the intent to induce any other person to enter into any obligation relating thereto, any statement, written or oral, that he will prepare, cause to be prepared, sell, or distribute any term paper, thesis, dissertation, or other written material for a fee or other compensation for or on behalf of any person who has been assigned the written preparation of such term paper, thesis, dissertation, or other written material for academic credit at any public or private college, university, or other institution of higher education in this state.

**Source:** **L. 73:** p. 1346, § 1. **C.R.S. 1963:** § 124-28-3.

**23-4-104. Injunctions.** (1) Any court of competent jurisdiction may grant such relief as is necessary to enforce the provisions of this article, including the issuance of an injunction.



(2) Actions for injunction under the provisions of this article may be brought in the name of the people of the state of Colorado by the attorney general or by the district attorney for the judicial district in which the conduct to be enjoined took place or by any public or private college, university, or other institution of higher education acting for the interest of itself, its students, or the general public.

**Source:** L. 73: p. 1347, § 1. C.R.S. 1963: § 124-28-4.

**23-4-105. Other remedies.** The provisions of this article are not exclusive. Nothing in this article shall be construed to preempt or in any other way to limit, diminish, or imply the absence of rights of any party, public or private, against any person in connection with any of the acts described in section 23-4-103.

**Source:** L. 73: p. 1347, § 1. C.R.S. 1963: § 124-28-5.

**23-4-106. Construction of article.** This article shall be liberally construed in order to prevent the practices described therein.

**Source:** L. 73: p. 1347, § 1. C.R.S. 1963: § 124-28-6.

ARTICLE 5

General Provisions

23-5-101.	Colorado educational institutions - annual reports. (Repealed)		ing in action - definitions. (Repealed)
23-5-101.5.	Enterprise status of auxiliary facilities - definitions.	23-5-111.4.	Tuition for members of the National Guard.
23-5-101.7.	Enterprise status of institutions of higher education.	23-5-111.5.	Educational benefits for dependents of deceased or permanently disabled National Guardsman - definitions. (Repealed)
23-5-101.8.	Enterprise status of institutions of higher education - loans - bonds. (Repealed)		
23-5-101.9.	Repeal. (Repealed)	23-5-112.	Gifts and bequests to institutions of higher education - venture development investment funds.
23-5-102.	Funding for auxiliary facilities - institutions of higher education - loans - bonds.	23-5-113.	Collection of loans and outstanding obligations - state educational institutions.
23-5-103.	Pledge of income.		
23-5-104.	No property lien.		
23-5-105.	Tax exemption.	23-5-114.	National direct student loans - authority to separately collect advances.
23-5-105.5.	State board for community colleges and occupational education - authority to create financial obligations.	23-5-115.	Loans or outstanding obligations offset.
23-5-106.	Authority of governing boards - general - health care insurance - contracts of indemnity.	23-5-116.	Governing boards - authority to provide out-of-state courses.
23-5-107.	Authority of governing boards - parking.	23-5-117.	Governing boards - delegation of personnel power.
23-5-108.	Governing boards authorized to cede jurisdiction for enforcement of traffic laws.	23-5-118.	Selective service registration prerequisite to enrollment.
23-5-109.	Identification.	23-5-119.	Colorado legislative distinguished professor fund. (Repealed)
23-5-110.	Medical personnel.	23-5-119.5.	Student fees - legislative declaration - definitions - institutional plans - fee information - reporting.
23-5-111.	Educational benefits for dependents of prisoners of war and military personnel miss-		

23-5-120.	Student fees - deposit - interest.		service contracts - authorization.
23-5-121.	Governing boards - authority to establish nonprofit corporations for developing discoveries and technology.	23-5-130.5.	Governing boards - tuition-setting - repeal.
		23-5-131.	Governing boards - tuition - fixed rate contract.
23-5-122.	Intrainstitutional and intrasystem transfers - course scheduling.	23-5-132.	Governing boards - travel policies - exemption from state travel rules.
23-5-123.	Sabbatical leave - legislative declaration - policy - production of records.	23-5-133.	Instructors - health benefits study - report.
		23-5-134.	Appointments to governing boards - considerations.
23-5-124.	Student enrollment - prohibition - public peace and order convictions.	23-5-135.	Governing boards - underserved students - report - repeal. (Repealed)
23-5-125.	Campus sex offender information.	23-5-136.	Governing boards - on-line textbook program.
23-5-126.	Governing boards - anti-terrorism measures.	23-5-137.	Loan repayment assistance - legislative declaration - definitions.
23-5-127.	Unique student identifying number - social security number - prohibition.	23-5-138.	Textbooks - definitions - academic freedom.
		23-5-139.	Higher education revenue bond intercept program.
23-5-128.	Meningococcal disease - information - immunity.	23-5-140.	Lifesaving school safety information.
23-5-129.	Governing boards - performance contract - authorization - operations.	23-5-141.	Campus police information sharing - legislative declaration - definitions.
23-5-130.	Governing boards - fee-for-		

**23-5-101. Colorado educational institutions - annual reports. (Repealed)**

**Source:** L. 15: p. 365, § 1. C.L. § 320. CSA: C. 153, § 60. CRS 53: § 124-1-1. L. 61: pp. 708, 709, §§ 1, 3. C.R.S. 1963: § 124-1-1. L. 64: p. 170, § 134. L. 75: Entire section amended, p. 743, § 1, effective June 16. L. 77: Entire section amended, p. 1094, § 3, effective July 1. L. 78: Entire section amended, p. 376, § 1, effective March 30. L. 83: Entire section amended, p. 833, § 37, effective July 1. L. 85: Entire section amended, p. 769, § 26, effective July 1. L. 88: Entire section amended, p. 857, § 5, effective July 1. L. 90: Entire section amended, p. 1154, § 3, effective July 1. L. 94: Entire section repealed, p. 1796, § 8, effective May 31.

**23-5-101.5. Enterprise status of auxiliary facilities - definitions.** (1) Any auxiliary facility or group of auxiliary facilities with similar functions which is managed by the governing body of an institution of higher education or by the board of directors of the Auraria higher education center may be designated as an enterprise for the purposes of section 20 of article X of the state constitution so long as the governing body of the institution of higher education or the board of directors of the Auraria higher education center, whichever manages such auxiliary facility or group of auxiliary facilities, retains the authority to issue revenue bonds on behalf of such auxiliary facility or group of auxiliary facilities and such auxiliary facility or group of auxiliary facilities receives less than ten percent of its total annual revenues in grants from all Colorado state and local governments combined. The general assembly hereby finds and declares that, for the purposes of determining whether an auxiliary facility or group of auxiliary facilities may be designated as an enterprise, it is sufficient that the governing body of an institution of higher education or the board of directors of the Auraria higher education center, whichever manages such auxiliary facility or group of auxiliary facilities, has authority to issue revenue bonds on behalf of such auxiliary facility or group of auxiliary facilities. So long as it is designated as an enterprise pursuant to the provisions of this section, an auxiliary facility or group of auxiliary facilities shall not be subject to any of the provisions of section 20 of article X of the state constitution.



(1.5) In pledging revenues for the repayment of revenue bonds issued on behalf of any auxiliary facility or group of auxiliary facilities that is designated as an enterprise, the institution of higher education and the auxiliary facility or group of auxiliary facilities may pledge internal revenues only if the auxiliary facility or group of auxiliary facilities:

(a) Is accounted for separately in institutional financial records;

(b) Is self-supporting from revenues received as gifts from nongovernmental sources or in exchange for goods and services; and

(c) Engages in the type of activities that are commonly carried on for profit outside the public sector.

(2) As used in this section and sections 23-5-101.7 to 23-5-105.5:

(a) "Auxiliary facility" means any student or faculty housing facility; student or faculty dining facility; recreational facility; student activities facility; child care facility; continuing education facility or activity; intercollegiate athletic facility or activity; health facility; alternative or renewable energy producing facility, including but not limited to, a solar, wind, biomass, geothermal, or hydroelectric facility; college store; or student or faculty parking facility; or any similar facility or activity that has been historically managed, and was accounted for in institutional financial statements prepared for fiscal year 1991-92, as a self-supporting facility or activity, including any additions to and any extensions or replacements of any such facility on any campus under the control of the governing board managing such facility. "Auxiliary facility" shall also mean any activity undertaken by the governing board of any state-supported institution of higher education as an eligible lender participant pursuant to parts 1 and 2 of article 3.1 of this title.

(b) (I) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in Colorado which is not required to be repaid.

(II) "Grant" does not include:

(A) Any indirect benefit conferred upon an auxiliary facility, or group of auxiliary facilities or an institution or group of institutions from the state or any local government in Colorado, including any interest in or use of existing facilities owned, funded, or financed by the governing board of an institution, the state, or any local government in Colorado;

(B) Any revenues resulting from market exchanges such as rates, fees, assessments, tuition, or other charges imposed by an auxiliary facility, or group of auxiliary facilities or by an institution or group of institutions for the provision of goods or services by such auxiliary facility, group of auxiliary facilities, institution or group of institutions, including services to the state or a local government in Colorado and fees paid to the auxiliary facility or group of auxiliary facilities for internal services provided to the institution of higher education with which the auxiliary facility is associated;

(C) Any federal funds, regardless of whether such federal funds pass through the state or any local government in Colorado prior to receipt by an auxiliary facility, group of auxiliary facilities, institution, or group of institutions;

(D) Fees received by an institution pursuant to a fee-for-service contract between the department of higher education and the institution or the institution's governing board;

(E) Revenues received by an institution or group of institutions that have been paid on behalf of an eligible undergraduate student from the college opportunity fund pursuant to article 18 of this title.

(c) "Internal revenues" means revenues received in exchange for the provision of goods or services to the institution of higher education with which the auxiliary facility or group of auxiliary facilities is associated; except that revenues received from another auxiliary facility or group of auxiliary facilities that has been designated as an enterprise are not "internal revenues".

(3) (a) The governing body of an institution of higher education or the board of directors of the Auraria higher education center may, by resolution, designate any auxiliary facility or group of auxiliary facilities with similar functions managed by such governing body or board of directors, as applicable, as an enterprise so long as such auxiliary facility or group of auxiliary facilities meets the requirements for an enterprise as stated in subsection (1) of this section. The designation of a group of auxiliary facilities with similar functions may include auxiliary facilities that are located at one or more campuses or institutions under the jurisdiction of the governing body or board of directors. Except as

provided in paragraph (b) of this subsection (3), any such designation of an auxiliary facility or group of auxiliary facilities in accordance with the requirements of this paragraph (a) shall not terminate, expire, or be rescinded as long as the auxiliary facility or group of auxiliary facilities meets the requirements for an enterprise.

(b) All designations adopted pursuant to paragraph (a) of this subsection (3) shall be submitted by the adopting body to the office of the state auditor in the form and manner prescribed by the legislative audit committee. Said designations shall be reviewed by said office to determine whether said designations are within the authority of the adopting body pursuant to the provisions of this section and for later review by the legislative audit committee for its opinion as to whether the designations conform with the provisions of this section. The official certificate of the state auditor as to the fact of submission or the date of submission of a designation as shown by the records of the office of the state auditor, as well as to the fact of nonsubmission as shown by the nonexistence of such records, shall be received and held in all civil cases as competent evidence of the facts contained therein. Any such designation adopted by a governing body of an institution of higher education or by the board of directors of the Auraria higher education center without being so submitted within twenty days after adoption to the office of the state auditor for review by said office and by the legislative audit committee shall be void. The findings of the office of the state auditor shall be presented to said committee at a public meeting held after timely notice to the public and affected adopting bodies. The legislative audit committee shall, on affirmative vote, submit such designations, comments, and any proposed legislation at the next regular session of the general assembly. Any member of the general assembly may introduce a bill which rescinds any designation. Rejection of such a bill does not constitute legislative approval of such designation. Each adopting body shall revise its designations to conform with the action taken by the general assembly. For the purpose of performing the functions assigned it by this paragraph (b), the legislative audit committee, with the approval of the speaker of the house of representatives and the president of the senate, may appoint subcommittees from the membership of the general assembly.

(4) The following auxiliary facilities shall be designated as enterprises in accordance with the requirements of this section:

(a) Auraria higher education center:

(I) Parking;

(II) Student facilities;

(III) Reprographics; and

(IV) Other auxiliaries;

(V) and (VI) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)

(b) University of Colorado:

(I) Auxiliary facilities;

(II) Education services;

(III) Research support services; and

(IV) Other self-funded services;

(c) Colorado school of mines:

(I) Student and faculty services;

(II) Continuing education;

(III) General operations; and

(IV) Research revolving;

(d) University of northern Colorado:

(I) Continuing education; and

(II) to (IV) (Deleted by amendment, L. 98, p. 218, § 1, effective April 10, 1998.)

(V) (Deleted by amendment, L. 2004, p. 110, § 1, effective March 17, 2004.)

(VI) Auxiliary facilities;

(e) Colorado community college and occupational education system:

(I) (Deleted by amendment, L. 98, p. 218, § 1, effective April 10, 1998.)

(II) Continuing education;

(III) Student and faculty services;

(IV) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)

(V) Tec operations; and



- (VI) Lowry enterprise;
- (f) Colorado state university system:
  - (I) Student and faculty operations and activities;
- (II) Continuing education;
- (III) (Deleted by amendment, L. 97, p. 1407, § 6, effective July 1, 1997.)
- (IV) Research building revolving fund; and
- (V) Colorado state forest service seedling tree nursery;
- (g) Adams state university:
  - (I) Student and faculty services; and
  - (II) Continuing education;
- (h) Colorado Mesa university:
  - (I) Student and faculty services;
  - (II) Continuing education; and
  - (III) Other self-funded services;
- (i) Metropolitan state university of Denver:
  - (I) Student and faculty services; and
  - (II) Continuing education;
- (j) Western state Colorado university:
  - (I) Student and faculty services; and
  - (II) Continuing education; and
- (k) Fort Lewis college:
  - (I) Student and faculty operations and activities; and
  - (II) Continuing education.

(5) Notwithstanding paragraph (a) of subsection (3) of this section relating to the designation of auxiliary facilities as enterprises, those auxiliary facilities of Fort Lewis college, which were a part of the Colorado state university system enterprise pursuant to paragraph (f) of subsection (4) of this section, shall, as they relate to Fort Lewis college, be designated enterprises of the board of trustees for Fort Lewis college, established in section 23-52-102.

(6) Notwithstanding paragraph (a) of subsection (3) of this section relating to the designation of auxiliary facilities as enterprises:

(a) Any auxiliary facilities of Adams state university that were a part of any state colleges enterprise pursuant to paragraph (g) of subsection (4) of this section in existence prior to the establishment of the board of trustees of Adams state university in section 23-51-102 shall, as they relate to Adams state university, be designated enterprises of the board of trustees of Adams state university.

(b) Any auxiliary facilities of Colorado Mesa university that were part of Mesa state college that were a part of any state colleges enterprise pursuant to paragraph (g) of subsection (4) of this section in existence prior to the establishment of the board of trustees of Colorado Mesa university in section 23-53-102 shall, as they relate to Colorado Mesa university, be designated enterprises of the board of trustees of Colorado Mesa university.

(c) Any auxiliary facilities of Metropolitan state university of Denver that were a part of any state colleges enterprise established under law in existence prior to the establishment of the board of trustees of Metropolitan state university of Denver in section 23-54-102 shall, as they relate to Metropolitan state university of Denver, be designated enterprises of the board of trustees of Metropolitan state university of Denver.

(d) Any auxiliary facilities of Western state Colorado university that were a part of any state colleges enterprise pursuant to paragraph (g) of subsection (4) of this section in existence prior to the establishment of the board of trustees of Western state Colorado university in section 23-56-102 shall, as they relate to Western state Colorado university, be designated enterprises of the board of trustees of Western state Colorado university.

**Source:** **L. 93:** Entire section added, p. 1820, § 1, effective June 6. **L. 94:** (4) added, p. 624, § 1, effective April 14; (2)(a), (2)(b)(II)(B), and (3)(a) amended, p. 1677, § 3, effective May 31. **L. 97:** (1.5), (2)(c), and (4)(e)(VI) added and (4)(a)(III), (4)(a)(V), (4)(a)(VI), (4)(e)(IV), (4)(e)(V), (4)(f)(II), and (4)(f)(III) amended, p. 1407, §§ 4, 5, 6, effective July 1. **L. 98:** (4) amended, p. 218, § 1, effective April 10. **L. 2002:** (2)(a)

amended, p. 962, § 3, effective June 1; (4)(h) and (5) added, pp. 1260, 1261, §§ 19, 20, effective July 1. **L. 2003:** IP(4)(g) amended, p. 789, § 8, effective July 1. **L. 2004:** (4)(d)(I), (4)(d)(V), (4)(g), and (4)(h) amended and (4)(i), (4)(j), (4)(k), and (6) added, pp. 110, 111, §§ 1, 2, effective March 17; (2)(b)(II) amended, p. 720, § 9, effective July 1. **L. 2009:** (3)(a) and (4) amended, (HB 09-1229), ch. 167, p. 734, § 1, effective April 22. **L. 2010:** (2)(a) amended, (SB 10-003), ch. 391, p. 1859, § 41, effective June 9. **L. 2011:** IP(4)(h) and (6)(b) amended, (SB 11-265), ch. 292, p. 1366, § 18, effective August 10. **L. 2012:** (4)(g) and (6)(a) amended, (HB 12-1080), ch. 189, p. 758, § 13, effective May 19; IP(4)(i) and (6)(c) amended, (SB 12-148), ch. 125, p. 425, § 9, effective July 1; IP(4)(j) and (6)(d) amended, (HB 12-1331), ch. 254, p. 1269, § 11, effective August 1.

**Cross references:** For the legislative declaration contained in the 2002 act enacting subsections (4)(h) and (5), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration contained in the 2004 act amending subsection (2)(b)(II), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portion to subsection (4)(h) and subsection (6)(b), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending the introductory portion to subsection (4)(i) and subsection (6)(c), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-5-101.7. Enterprise status of institutions of higher education.** (1) As used in this section, unless the context otherwise requires, “institution of higher education” or “institution” means the Colorado state university - Pueblo, Adams state university, Colorado Mesa university, Metropolitan state university of Denver, Fort Lewis college, Western state Colorado university, the university of northern Colorado, Colorado school of mines, the university of Colorado, Colorado state university, and all community colleges governed by the state board for community colleges and occupational education.

(2) An institution of higher education, or a group of institutions of higher education that is managed by a single governing board, may be designated as an enterprise for the purposes of section 20 of article X of the state constitution so long as the governing board of the institution or group of institutions retains authority to issue revenue bonds on behalf of the institution or group of institutions and the institution or group of institutions receives less than ten percent of its total annual revenues in grants from all Colorado state and local governments combined. So long as it is designated as an enterprise pursuant to the provisions of this section, an institution or group of institutions shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(3) In pledging revenues for the repayment of revenue bonds issued on behalf of an institution of higher education or group of institutions of higher education that is designated as an enterprise, the institution or group of institutions may pledge internal revenues only if the institution or group of institutions:

(a) Is accounted for separately in institutional financial records; and

(b) Engages in the type of activities that are commonly carried on for profit outside the public sector.

(4) (a) The governing board of an institution of higher education may, by resolution, designate an institution of higher education or group of institutions of higher education managed by the governing board as an enterprise so long as the institution or group of institutions meets the requirements for an enterprise stated in subsection (2) of this section. Except as provided in paragraph (b) of this subsection (4), any such enterprise designation shall not terminate, expire, or be rescinded as long as the institution or group of institutions meets the requirements for an enterprise.

(b) All resolutions adopted pursuant to paragraph (a) of this subsection (4) shall be submitted by the adopting governing board to the office of the state auditor in the form and manner prescribed by the legislative audit committee. The designations shall be reviewed by the office of the state auditor to determine whether the designations are within the authority of the adopting governing board pursuant to the provisions of this section. The legislative audit committee shall also review the designations to determine whether the



designations conform with the provisions of this section. The official certificate of the state auditor as to the fact of submission or the date of submission of a designation as shown by the records of the office of the state auditor, as well as to the fact of nonsubmission as shown by the nonexistence of such records, shall be received and held in all civil cases as competent evidence of the facts contained therein. A designation adopted by a governing board of an institution or group of institutions of higher education without being submitted within twenty days after adoption to the office of the state auditor for review by the office and by the legislative audit committee shall be void.

(5) Repealed.

**Source:** **L. 2004:** Entire section added, p. 719, § 8, effective July 1; (5) repealed, p. 1936, § 5, effective July 1. **L. 2011:** (1) amended, (SB 11-265), ch. 292, p. 1366, § 19, effective August 10. **L. 2012:** (1) amended, (HB 12-1080), ch. 189, p. 758, § 14, effective May 19; (1) amended, (SB 12-148), ch. 125, p. 426, § 10, effective July 1; (1) amended, (HB 12-1331), ch. 254, p. 1270, § 12, effective August 1.

**Editor's note:** Amendments to subsection (1) by House Bill 12-1080, Senate Bill 12-148, and House Bill 12-1331 were harmonized.

**Cross references:** For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration contained in the 2004 act repealing subsection (5), see section 1 of chapter 391, Session Laws of Colorado 2004. For the legislative declaration in the 2011 act amending subsection (1), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (1), see section 1 of chapter 125, Session Laws of Colorado 2012.

### **23-5-101.8. Enterprise status of institutions of higher education - loans - bonds.** **(Repealed)**

**Source:** **L. 2004:** Entire section added, p. 1932, § 2, effective (see editor's note).

**Editor's note:** (1) Section 23-5-101.9 provided for the repeal of this section, effective July 1, 2007. (See L. 2004, p. 1935.)

(2) This section was to take effect only if Senate Bill 04-189 did not become law. Said bill was signed by the governor on May 10, 2004. In addition, the revisor of statutes never received the notice specified in section 9 (3) of chapter 391, Session Laws of Colorado 2004. (See L. 2004, p. 1937.)

### **23-5-101.9. Repeal. (Repealed)**

**Source:** **L. 2004:** Entire section added, p. 1935, § 3, effective July 1.

**Editor's note:** This section provided for the repeal of this section, effective July 1, 2007. (See L. 2004, p. 1935.)

**23-5-102. Funding for auxiliary facilities - institutions of higher education - loans - bonds.** (1) For the purpose of obtaining funds for constructing, otherwise acquiring, and equipping auxiliary facilities for the use of students and employees at any state educational institution or any branch thereof or facilities for use by any institution or group of institutions that is designated as an enterprise pursuant to section 23-5-101.7 and for the acquisition of land for such purposes, the governing board of any state educational institution is authorized, after notification to the commission on higher education, to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advancements with interest at a specified net effective interest rate.

(2) The governing board of any institution of higher education by resolution may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions managed by such governing board for the purpose

of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities or for facilities for such institution or group of institutions. Any bonds issued on behalf of any auxiliary facility or group of auxiliary facilities, other than housing facilities, dining facilities, recreational facilities, health facilities, parking facilities, alternative or renewable energy producing facilities including but not limited to, solar, wind, biomass, geothermal, or hydroelectric facilities, research facilities that are funded from a revolving fund, or designated enterprise auxiliary facilities listed in section 23-5-101.5 (4) may be issued only after approval by both houses of the general assembly either by bill or by joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. The governing board of an institution or group of institutions that issues bonds on behalf of the institution or group of institutions, which is designated as an enterprise pursuant to section 23-5-101.7, shall file notice of such issuance with the Colorado commission on higher education. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities or by the institution or group of institutions on behalf of which such bonds are issued; except that, subject to section 23-5-119.5 (5) (a) (III) and (5) (b) (II), revenues generated by a designated enterprise that is associated with the university of Colorado may be pledged for the repayment of bonds issued by another designated enterprise auxiliary facility that is not part of the same enterprise. Such bonds shall be issued in accordance with the provisions of section 23-5-103 (2). The termination, rescission, or expiration of the enterprise designation of any auxiliary facility or group of auxiliary facilities pursuant to section 23-5-101.5 (3) or of any institution or group of institutions shall not adversely affect the validity of or security for any revenue bonds issued on behalf of any auxiliary facility or group of auxiliary facilities or on behalf of any institution or group of institutions.

**Source:** L. 53: p. 554, § 1. CRS 53: § 124-1-6. L. 61: p. 710, § 1. C.R.S. 1963: § 124-1-4. L. 67: p. 201, § 1. L. 70: p. 345, § 1. L. 93: Entire section amended, p. 1822, § 2, effective June 6. L. 94: (2) amended, p. 1678, § 4, effective May 31. L. 97: (2) amended, p. 1405, § 2, effective July 1. L. 2004: Entire section amended, p. 721, § 10, effective July 1. L. 2010: (2) amended, (SB 10-003), ch. 391, p. 1860, § 42, effective June 9. L. 2011: (2) amended, (HB 11-1301), ch. 297, p. 1418, § 8, effective August 10.

**Cross references:** For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending subsection (2), see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-5-103. Pledge of income.** (1) The governing board of any one or more state educational institutions, including, but not limited to, the state colleges under the control and operation of their respective boards of trustees, that enters into such a contract for the advancement of moneys is authorized, in connection with or as a part of such contract, to pledge the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, any such governing board is also authorized, subject to the limitations specified in section 23-5-119.5 (5), to pledge the net income derived or to be derived from other facilities that are included in a designated enterprise or, if not included, other facilities that are not acquired and not to be acquired with moneys appropriated to the institution by the state of Colorado, and to pledge the net income, fees, and revenues derived from such sources, if unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged. A governing board of an institution or group of institutions designated as an enterprise pursuant to section 23-5-101.7 that has entered into a contract for the advancement of money on behalf of such an institution or group of institutions may pledge up to ten percent of tuition revenues of such an enterprise, except for general fund moneys appropriated by the general assembly, and all



or a portion of a facility construction fee that may be imposed as security for the repayment of the moneys advanced pursuant to said contract. The pledge of tuition revenues or the imposition of a facility construction fee shall include a process for student input consistent with the institutional plan for student fees adopted by the governing board of the applicable institution pursuant to section 23-5-119.5.

(2) Any advancement of moneys may be evidenced by interim warrants, if necessary, and bonds to be executed by and on behalf of the educational institution receiving the advancement and containing such terms and provisions, including provisions for redemption prior to maturity, as may be determined by the governing board of such institution. Such warrants or bonds may, at the discretion of the governing board, be registerable as to principal or interest, or both, and shall never be sold at less than ninety-five percent of the principal amount thereof and accrued interest thereon to the date of delivery nor at a price which will result in a net effective interest rate which exceeds that specified in the contract for the advancement of moneys. Any of the warrants or bonds of the institution issued pursuant to this article or any other law may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the governing board such refunding is to the best interests of the educational institution. Such refunding obligations may be made payable from any source which may be legally pledged for the payment of the obligations being refunded at the time of the issuance of the obligations so refunded or from any of the sources described in subsection (1) of this section, notwithstanding the pledge for the payment of the outstanding obligations being refunded is thereby modified.

(3) If the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged and exceed the amount necessary for the maintenance and operation of the auxiliary facility plus any amount set aside in a reserve fund for repair and replacement of the facility, the governing board may retain such surplus and utilize the same in such manner as in its judgment is for the best interests of the educational institution; except that, if the governing board uses the surplus moneys on a project requiring total project expenditures that exceed two million dollars, the project shall be subject to the provisions of section 23-1-106. Use of such surplus shall be reviewed in advance by representatives of the student government at the institution with which the auxiliary facility is associated.

(4) Anticipation warrants or bonds issued pursuant to this article may be used as security for any depository bond or obligation where any kind of bonds or other securities shall or may by law be deposited as security.

**Source:** L. 53: p. 554, § 2. CRS 53: § 124-1-7. L. 61: p. 710, § 2. L. 63: p. 867, § 1. C.R.S. 1963: § 124-1-5. L. 67: p. 201, § 2. L. 68: p. 7, § 1. L. 70: p. 345, § 2. L. 78: (1) amended, p. 380, § 1, effective March 24. L. 88: (1) amended, p. 858, § 6, effective July 1. L. 93: (1) and (3) amended, p. 1823, § 3, effective June 6. L. 94: (1) amended, p. 1680, § 6, effective May 31. L. 97: (1) and (3) amended, p. 1406, § 3, effective July 1. L. 2003: (1) amended, p. 789, § 9, effective July 1. L. 2004: (1) amended, p. 722, § 11, effective July 1; (1) amended, p. 1935, § 4, effective July 1. L. 2011: (1) and (3) amended, (HB 11-1301), ch. 297, pp. 1419, 1431, §§ 9, 31, effective August 10.

**Cross references:** For the legislative declaration contained in the 2004 act amending subsection (1), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration contained in the 2004 act amending subsection (1), see section 1 of chapter 391, Session Laws of Colorado 2004.

#### ANNOTATION

**There is no constitutional or statutory limit on revenue bonds issued by state educational institutions.** *Lewis v. State Bd. of Agriculture*, 138 Colo. 540, 335 P.2d 546 (1959).

**This section specifically authorizes the pledging of net income** derived from other housing facilities, dining facilities, or recreational facilities to pay bonds. *Lewis v. State Bd.*

of Agriculture, 138 Colo. 540, 335 P.2d 546 (1959).

**The issuance of revenue bonds by a state university** pledging excess revenues produced by one self-liquidating facility as security for the payment of revenue bonds issued for another project, where all of the projects are related to the operation and maintenance of Colorado state university, does not offend against any provision of the state constitution and is with the authority

conferred by law. *Lewis v. State Bd. of Agriculture*, 138 Colo. 540, 335 P.2d 546 (1959).

**There is no constitutional objection to the issuance of revenue bonds to finance a building program** at Colorado state university, payment of which is secured by income and fees of certain self-liquidating facilities of the university in accordance with this section. *Perl-Mack Civic Ass'n v. Bd. of Dirs. of Baker Metro. & San. Dist.*, 140 Colo. 371, 344 P.2d 685 (1959).

**23-5-104. No property lien.** The governing board of any state educational institution shall not create a mortgage upon any property belonging to the institution, nor shall the state be obligated, for the purpose of securing the repayment of any funds advanced pursuant to the provisions of sections 23-5-102 to 23-5-105 or the interest on such funds.

**Source:** L. 53: p. 555, § 3. CRS 53: § 124-1-8. C.R.S. 1963: § 124-1-6.

**23-5-105. Tax exemption.** Any bonds, certificates, or warrants issued pursuant to the provisions of sections 23-5-102 to 23-5-105 by the governing board of any state educational institution shall be exempt from taxation for any state, county, school district, special district, municipal, or other purpose in the state of Colorado.

**Source:** L. 53: p. 555, § 4. CRS 53: § 124-1-9. C.R.S. 1963: § 124-1-7.

**23-5-105.5. State board for community colleges and occupational education - authority to create financial obligations.** Nothing in sections 23-5-101.5 to 23-5-105 shall be construed to prohibit the state board for community colleges and occupational education from issuing revenue bonds or other revenue obligations payable from the revenues from all or any part of the auxiliary facilities within the community college and occupational education system.

**Source:** L. 94: Entire section added, p. 940, § 1, effective April 28.

**23-5-106. Authority of governing boards - general - health care insurance - contracts of indemnity.** (1) The governing board of any state institution of higher education has the authority to promulgate rules and regulations for the safety and welfare of students, employees, and property, to promulgate rules and regulations necessary for the governance of the respective institutions, and to promulgate rules and regulations deemed necessary to carry out the provisions of sections 23-5-106 to 23-5-110. Western state Colorado university shall not refuse to admit any Colorado resident qualified in accordance with applicable Colorado commission on higher education admission standards.

(2) The governing board of any state institution of higher education shall not promulgate any rules or regulations that restrict or prohibit on-campus recruiting by any local, state, or federal governmental agency; except that recruiting activities by any local, state, or federal governmental agency shall be subject to the same time, place, or manner restrictions that apply to other entities that conduct recruiting on campus.

(3) (a) The governing board of an institution of higher education shall not require an undergraduate student to purchase health care insurance or health care services.

(b) The provisions of paragraph (a) of this subsection (3) do not apply to any program that was in existence at an institution of higher education on January 1, 1994.

(4) The governing board of a state institution of higher education that is designated as an enterprise pursuant to section 23-5-101.7 may contract to indemnify and hold harmless a contractor if the governing board determines that the contract serves a valid public purpose and any risks to the institution that may arise from entering into the contract are sufficiently limited and outweighed by the benefits of the contract. Notwithstanding any other provision of law to the contrary, a liability claim or expense that arises from a contract



to indemnify or hold harmless entered into by a governing board pursuant to this subsection (4) shall not be payable from the risk management fund created in section 24-30-1510, C.R.S., and shall be payable solely from revenues of the institution.

**Source:** L. 69: p. 1063, § 1. C.R.S. 1963: § 124-1-8. L. 94: Entire section amended, p. 1677, § 2, effective May 31; entire section amended, p. 1796, § 9, effective May 31. L. 2007: (3)(a) amended, p. 69, § 1, effective March 15. L. 2011: (4) added, (HB 11-1301), ch. 297, p. 1420, § 11, effective August 10. L. 2012: (1) amended, (HB 12-1331), ch. 254, p. 1270, § 13, effective August 1.

**23-5-107. Authority of governing boards - parking.** (1) The governing board of any state institution of higher education is authorized to promulgate rules and regulations providing for the operation and parking of vehicles upon the grounds, driveways, or roadways within the property under the control of the governing board. Such rules and regulations may include, but not be limited to, regulation and control of the following:

- (a) Assignment of parking spaces, designation of areas for parking, and regulation of the use of such spaces and areas including the assessment of charges therefor;
- (b) Prohibition or limitation of parking in the manner deemed necessary;
- (c) Removal of vehicles parked in violation of institutional rules and regulations, ordinances, or law at the expense of the violator;
- (d) Assessment of charges for violation of rules and regulations.

**Source:** L. 69: p. 1063, § 1. C.R.S. 1963: § 124-1-9.

**23-5-108. Governing boards authorized to cede jurisdiction for enforcement of traffic laws.** (1) The governing board of any state institution of higher education is authorized to cede jurisdiction to the town, city, city and county, or county in which the property under the control of the governing board is located for the enforcement of ordinances, resolutions, and laws pertaining to the operation of motor vehicles, subject to the acceptance of jurisdiction by the respective town, city, city and county, or county.

(2) Upon acceptance of jurisdiction:

(a) The town, city, city and county, or county has authority to enforce the provisions of ordinances, resolutions, or state law pertaining to the operation of motor vehicles on streets or highways within the property under the control of the governing board by means of the police and judicial powers established by resolution, ordinance, or law; except that such jurisdiction shall not conflict with the authority provided in section 23-5-107, as such is exercised by the governing board;

(b) The ordinances and resolutions of the respective local authorities and state laws shall have the same force and effect on the driveways and roadways within the property under the control of the governing board as they have on the streets and highways within the jurisdiction of the local authorities;

(c) The local authorities shall, upon recommendation of the governing board of any state institution of higher education or its designated officer, establish traffic control devices upon the property under the control of such institution, and, upon establishment, the devices shall have the same legal effect as provided in sections 42-4-112 and 42-4-603, C.R.S. The traffic control devices so established shall be installed at the expense of the institution.

(3) Even though jurisdiction is ceded in the manner provided by this section, the authority to establish, close, change, alter, or limit access to the driveways or roadways within the property under the control of a governing board shall vest and remain with such governing board.

(4) The jurisdiction of local authorities to enforce ordinances, resolutions, and laws pertaining to the operation of motor vehicles upon the property under the control of a state institution of higher education shall not be deemed to convey any right, title, or interest in the roadways and driveways of said property, and the jurisdiction over said roadways and driveways shall extend only to enforcement of such ordinances, resolutions, and laws. The

state of Colorado reserves the right at all times to revoke the jurisdiction of local authorities granted by this section.

(5) The governing board of any state institution of higher education is authorized to institute and carry out a system of registration of vehicle identification owned or operated by its students, faculty, and staff. By rule or regulation, the governing board may provide for the issuance of suitable vehicle identification insignia, its proper use, and requirements for attachment to the registered vehicle. Authority is also granted to provide for suspension of the registration and penalties, other than criminal penalties, upon suspension including, but not limited to, barring the vehicle from parking or driving on institution property. Reasonable charges may be assessed for registration and reinstatement upon suspension.

**Source:** L. 69: p. 1063, § 1. C.R.S. 1963: § 124-1-10. L. 94: (2)(c) amended, p. 2554, § 48, effective January 1, 1995.

**23-5-109. Identification.** The governing board of any state institution of higher education is authorized to promulgate rules and regulations establishing a system of identification of students, faculty, and staff which may include provisions for penalties other than criminal penalties and provisions for disciplinary action for failure to display one's identification card upon request by an authorized official, possession of a false identification card, and alteration of an identification card. The authorized officials of such institution have authority to detain a person upon the property under the control of the institution for the purpose of obtaining proper identification if such person refuses to display his identification card or otherwise give adequate identification upon request by an authorized official.

**Source:** L. 69: p. 1064, § 1. C.R.S. 1963: § 124-1-11.

**23-5-110. Medical personnel.** Notwithstanding any other provision of law to the contrary, any person holding a license to practice medicine in this state may accept employment from any public or private university, college, junior or community college, school district, or private nonprofit school to examine and treat the students of such a university, college, or school, and, if no increase in staff or expenditures is required by the university, college, or school, the spouses of such students.

**Source:** L. 69: p. 1065, § 1. C.R.S. 1963: § 124-1-12. L. 81: Entire section amended, p. 1095, § 1, effective June 4.

**23-5-111. Educational benefits for dependents of prisoners of war and military personnel missing in action - definitions. (Repealed)**

**Source:** L. 73: p. 1319, § 1. C.R.S. 1963: § 124-1-13. L. 79: Entire section repealed, p. 830, § 2, effective June 19.

**Cross references:** For present provisions concerning educational benefits for dependents of certain military personnel, see §§ 23-3.3-201 and 23-3.3-204.

**23-5-111.4. Tuition for members of the National Guard.** (1) The general assembly recognizes its responsibility for the establishment and maintenance of a strong well-trained and high-spirited National Guard. The encouragement of membership in the guard through the granting of reduced or free tuition at certain institutions of postsecondary education simultaneously expresses a commitment to a part of this responsibility and supports existing institutions, carrying out a policy of maintaining reasonable access to quality education as broadly in this state as possible. The general assembly hereby finds and declares that the establishment of a tuition assistance program will encourage enlistments, enhance the knowledge and skills of the National Guard, and retain membership in the National Guard.



(2) (a) Any person who is a member of the Colorado National Guard, upon being accepted for enrollment at any designated institution of higher education, shall be permitted to pursue studies leading toward a bachelor's degree, a postgraduate degree, an associate degree, or a certificate of completion with at least fifty percent but not more than one hundred percent of the cost of tuition paid by the department of military and veterans affairs, subject to available appropriations, for so long as such person remains a member of the Colorado National Guard, but such tuition payments shall not be made for more than one hundred thirty-two semester hours or one hundred ninety-eight quarter hours or for more than eight years.

(a.5) A member shall be eligible for tuition assistance pursuant to this section to the extent that the sum of the member's tuition assistance from all sources, including the federal government, does not exceed one hundred percent of the cost of tuition.

(b) In order to qualify for the tuition assistance authorized by this section, such member:

(I) Must meet the criteria for eligibility, as established by rules and regulations pursuant to subsection (7) of this section;

(II) May not be drawing tuition from any other tuition assistance program funded by a private employer that, when combined with the assistance in this section, would exceed one hundred percent of the tuition costs;

(III) May not be a recipient of a full scholarship for tuition and fees to any designated institution of higher education; and

(IV) Must serve in the Colorado National Guard during the period of time that the member is receiving tuition and fee assistance.

(c) In providing the tuition assistance to members pursuant to paragraph (a) of this subsection (2), the department of military and veterans affairs is encouraged to consider providing assistance on a priority basis to newly-enlisted members in their first term of service and who enlist in those military specialties that are experiencing shortages as determined by the department.

(d) For the purposes of this section, "member" means an enlisted member or officer of the National Guard.

(3) (a) For the purposes of this section, "designated institution of higher education" means the Colorado state university - Pueblo, Adams state university, Colorado Mesa university, Metropolitan state university of Denver, Fort Lewis college, Western state Colorado university, all independent area vocational schools, all local district colleges, the university of northern Colorado, the university of Colorado at Boulder, the university of Colorado at Denver, the university of Colorado at Colorado Springs, Colorado state university, the Colorado school of mines, the university of Colorado health sciences center, all community colleges governed by the state board for community colleges and occupational education, and any private institution of higher education in Colorado that qualifies for the college opportunity fund pursuant to article 18 of this title and that offers an accredited certificate or degree program in homeland security. For a member of the Colorado National Guard enrolled in a private institution of higher education, tuition assistance shall be limited to the completion of the accredited certificate or degree program in homeland security and shall be provided at the discretion of the adjutant general of the department of military and veterans affairs. The tuition benefit to members of the Colorado National Guard under this subsection (3) for an accredited certificate or degree program in homeland security shall not exceed the moneys appropriated annually to the Colorado National Guard pursuant to section 23-3.3-202.

(b) The department of military and veterans affairs shall establish the basis for the tuition assistance at the university of Colorado health sciences center.

(4) Repealed.

(5) For each individual member of the Colorado National Guard who is a continuing student and who is receiving tuition assistance as provided in this section, the department of military and veterans affairs shall obtain certification from the designated institution of higher education prior to the payment to the institution attesting to the member's current satisfactory academic standing at such designated institution of higher education, as determined by military regulations established pursuant to subsection (7) of this section, for

each semester or quarter for which tuition assistance is requested. No tuition assistance shall be granted without such certification.

(6) Any member who leaves the Colorado National Guard in violation of the member's agreement under subsection (2) of this section during an academic term for which the member is receiving tuition assistance shall be required to repay to the department of military and veterans affairs the amount of tuition assistance granted for that academic term and any and all collection fees incurred by the department of military and veterans affairs. Any such repayment of tuition assistance shall be credited to the Colorado National Guard tuition fund created in subsection (9) of this section.

(7) The department of military and veterans affairs shall promulgate military regulations for the administration of tuition assistance as provided in this section, including, but not limited to, the following:

(a) Criteria for the eligibility of a member of the National Guard for such tuition assistance. In establishing this criteria, the department of military and veterans affairs shall include, but not be limited to, consideration of the following:

(I) The member's past service and record, if any, in the National Guard;

(II) An evaluation of the member's commitment to future service in the National Guard;

(III) The member's military record, if any, including the member's achievements and whether the member has been honorably discharged;

(IV) The benefit to the National Guard by having such an individual as a member;

(V) Financial need, merit, or talent;

(b) Procedures to be followed by designated institutions of higher education in reporting the member's academic standing and in providing timely billing to the department of military and veterans affairs;

(c) A definition of satisfactory academic standing, including, but not limited to, consideration of the member's cumulative grade point average, credit hours completed, and progress toward a degree.

(8) Repealed.

(9) (a) There is hereby created in the state treasury the Colorado National Guard tuition fund which shall be administered by the department of military and veterans affairs and which shall consist of all moneys which may be appropriated thereto by the general assembly or which may be otherwise made available to it by the general assembly. Moneys "otherwise made available" shall include any repayment of tuition assistance made pursuant to subsection (6) of this section and any moneys appropriated by the general assembly for purposes of this section in accordance with section 23-3.3-202. The moneys in the fund are hereby continuously appropriated for the payment of tuition assistance as provided in this section. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund of the state.

(b) An audit of the Colorado National Guard tuition fund shall be made during the department of military and veterans affairs postaudit pursuant to section 2-3-103, C.R.S.

**Source:** **L. 79:** Entire section added, p. 831, § 1, effective July 1. **L. 85:** (2) and (3) amended, p. 778, § 1, effective May 10. **L. 88:** (3) amended, p. 858, § 7, effective July 1. **L. 90:** (3) amended, pp. 1154, 1142, §§ 4, 7, effective July 1. **L. 91:** (2) to (5) amended and (6) to (9) added, p. 546, § 1, effective May 18. **L. 96:** (1) to (3) amended, p. 367, § 1, effective April 17; (3) amended, p. 11, § 1, effective August 7; (8) repealed, p. 1238, § 86, effective August 7. **L. 99:** (2)(a), (2)(b)(II), (2)(b)(IV), (2)(c), (3), (6), IP(7), and (7)(b) amended, p. 1138, § 1, effective August 4. **L. 2002:** (2)(a), (2)(c), (4), (5), (6), IP(7), IP(7)(a), (7)(b), and (9) amended, p. 356, § 9, effective July 1; (3) amended, p. 708, § 7, effective July 1, 2003. **L. 2004:** (2)(a.5) added and (9)(a) amended, pp. 1156, 1155, §§ 3, 2, effective July 1. **L. 2005:** (2)(a.5), (2)(b)(IV), (2)(d), (3), (5), (6), and IP(7) amended, p. 257, § 1, effective July 1. **L. 2007:** (4) repealed, p. 1622, § 4, effective July 1. **L. 2008:** (3)(a) amended, p. 371, § 1, effective April 10. **L. 2011:** (3)(a) amended, (SB 11-265), ch. 292, p. 1367, § 20, effective August 10. **L. 2012:** (3)(a) amended, (HB 12-1080), ch. 189, p. 759, § 15, effective May 19; (3)(a) amended, (SB 12-148), ch. 125, p. 426, § 11, effective July 1; (3)(a) amended, (HB 12-1331), ch. 254, p. 1270, § 14, effective August 1.



**Editor's note:** (1) Amendments to subsection (3) in Senate Bill 96-023 and House Bill 96-1035 were harmonized.

(2) Amendments to subsection (3)(a) by House Bill 12-1080, Senate Bill 12-148, and House Bill 12-1331 were harmonized.

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsection (8), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 2002 act amending subsections (2)(a), (2)(c), (4), (5), (6), IP(7), IP(7)(a), (7)(b) and (9), see section 1 of chapter 121, Session Laws of Colorado 2002. For the legislative declaration in the 2011 act amending subsection (3)(a), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (3)(a), see section 1 of chapter 125, Session Laws of Colorado 2012.

### **23-5-111.5. Educational benefits for dependents of deceased or permanently disabled National Guardsman - definitions. (Repealed)**

**Source:** **L. 77:** Entire section added, p. 1107, § 1, effective August 1. **L. 79:** Entire section repealed, p. 830, § 2, effective June 19.

**Cross references:** For present provisions concerning educational benefits for dependents of certain National Guard personnel, see §§ 23-3.3-201 and 23-3.3-205.

**23-5-112. Gifts and bequests to institutions of higher education - venture development investment funds.** (1) All state institutions of higher education are authorized to receive gifts and bequests of money or property which may be tendered to any such institution by will or gift. The governing board of such institution is authorized, subject to the terms of any gift or bequest and to provisions of any applicable law, to hold such funds or property in trust or invest or sell them and use either principal or interest or the proceeds of sale for the benefit of such institutions or the students or others for whose benefit such institutions are conducted.

(2) When a governing board of an institution of higher education is offered a gift of property, whether real or personal, which directly or indirectly involves significant ongoing expenditures, the institution shall require in connection therewith an endowment sufficient to fund such expenses. This subsection (2) shall not apply when the gift has been approved by the Colorado commission on higher education with the understanding that acceptance will require an allocation of state funding and the commission is satisfied that provision therefor can be made within available resources. The commission shall prepare a statement of procedures of review and of criteria to be applied in its review of any such gifts, which shall have the approval of the governor and joint budget committee.

(3) Nonprofit entities such as foundations, institutes, and similar organizations organized for the sole benefit of one or more state institutions of higher education shall be entitled to receive gifts and bequests of money or property which may be tendered to any such entity by will or gift. Such gifts and bequests are subject to audit by the state auditor or his designee. If the entity is entirely separate and apart from the institution, if no employees of the institution serve as staff or as voting members of the entity's board, and if the funds and accounts of the entity are entirely separate from those of the institution, such gifts and bequests shall be subject to annual audit to be performed by an independent accounting firm engaged by the entity if determined in advance to be satisfactory to the legislative audit committee. The state auditor shall have access to all of the accountant's work papers. If, alternatively, the separate relationship does not prevail, members and employees of the board of the entity may include staff members or employees of the institution, and such gifts and bequests shall be subject to audit by the state auditor or his designee.

(4) (a) Each state institution of higher education may elect to establish a venture development investment fund for the purpose of facilitating the commercialization of research projects conducted at a research institution of the institution or a research institution that has an office of technology transfer. A venture development fund may be

administered by a nonprofit entity such as a foundation, institute, or similar organization that is affiliated with the institution.

(b) The purposes of a venture development investment fund established by a state institution of higher education pursuant to this section shall include, but need not be limited to, providing the following:

(I) Capital for entrepreneurial programs that are associated with the institution;

(II) Opportunities for students of the institution to gain experience in applying research to commercial activities;

(III) Proof-of-concept funding for the purpose of transforming research and development concepts into commercially viable products or services; and

(IV) Entrepreneurial opportunities for persons who are interested in transforming research into viable commercial ventures that create jobs in Colorado.

(c) Each state institution of higher education and each nonprofit entity, such as a foundation, institute, or similar organization, that is affiliated with a state institution of higher education is authorized to seek and accept gifts, grants, and donations to facilitate the establishment of a venture development investment fund.

(d) Individuals, businesses, and other entities are encouraged to donate moneys to research institutions of state institutions of higher education for the purpose of advancing the commercialization of research projects at the research institutions.

**Source:** L. 73: p. 1321, § 1. C.R.S. 1963: § 124-1-14. L. 2009: (4) added, (HB 09-1242), ch. 345, p. 1809, § 1, effective August 5.

**23-5-113. Collection of loans and outstanding obligations - state educational institutions.** (1) Notwithstanding the provisions of section 24-30-202.4, C.R.S., the governing board of any state educational institution may promulgate rules and regulations relating to procedures for collecting any loans or other outstanding obligations owed to such institution. The institution may employ private counsel or a collection agency to handle the collection of any such loan or obligation. Employment of private counsel or a collection agency shall be in accordance with the rules and regulations, but in no event shall the fees paid to the private counsel or collection agency exceed forty percent of the amount recovered.

(2) The institution is authorized to write off, release, or compromise any debt or obligation due the institution, but only in accordance with the rules and regulations applicable thereto.

**Source:** L. 83: Entire section added, p. 792, § 2, effective June 3. L. 2010: Entire section amended, (SB 10-003), ch. 391, p. 1850, § 27, effective June 9.

**Cross references:** For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-5-114. National direct student loans - authority to separately collect advances.** Each advance remitted to an individual by a state-supported institution of higher education pursuant to the terms of a national direct student loan program master agreement shall constitute a separate obligation for purposes of institutional collection procedures and jurisdictional limits under section 13-6-403, C.R.S.

**Source:** L. 83: Entire section added, p. 793, § 2, effective June 3.

**23-5-115. Loans or outstanding obligations offset.** (1) (a) At times prescribed by the department of revenue, but not less frequently than annually, a state educational institution shall certify to the department of revenue information regarding persons who owe a loan repayment or other outstanding obligation to the institution, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision pursuant to section 39-21-108 (3), C.R.S., or which has been reduced to judgment.



(b) Such information shall include the name and social security number of the person owing the debt, the amount of the debt, and any other identifying information required by the department of revenue.

(2) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 39-21-108 (3), C.R.S., the state treasurer shall disburse such amounts to the appropriate state educational institution.

**Source: L. 83:** Entire section added, p. 793, § 2, effective June 3. **L. 2002:** (1)(a) amended, p. 100, § 3, effective August 7.

**23-5-116. Governing boards - authority to provide out-of-state courses.** (1) The governing board of any state institution of higher education may offer postsecondary courses at locations outside the state of Colorado for credit applicable toward a degree program. For the purposes of this section, the commission, in consultation with the governing boards, shall determine by policy the definition of out-of-state courses. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that credit earned for courses offered outside the state of Colorado shall be applicable toward a degree from the sponsoring institution.

(2) The governing board of any state institution of higher education may offer post-secondary noncredit courses at locations outside the state of Colorado. Each governing board shall promulgate policies and procedures concerning the administration of such courses. The policies and procedures shall include, but are not limited to, the following:

(a) A requirement that no state general fund moneys shall be expended in connection with such out-of-state courses; and

(b) A requirement that noncredit courses may be provided that are not applicable toward a degree from the sponsoring institution.

(3) Each governing board shall notify the Colorado commission on higher education of policies and procedures promulgated pursuant to this section.

(4) and (5) (Deleted by amendment, L. 2008, p. 1478, § 19, effective May 28, 2008.)

(6) Each governing board shall provide an annual report to the department of higher education that describes all courses offered outside the boundaries of the state of Colorado. The report shall include a statement of need for the instruction, the geographical location of the instruction, and confirmation that no state funds were used in connection with the out-of-state courses.

(7) This section shall not be construed to limit the authority of the governing boards of state institutions of higher education to offer courses in the state of Colorado.

**Source: L. 83:** Entire section added, p. 796, § 1, effective June 3. **L. 2008:** IP(1), (4), (5), and (6) amended, p. 1478, § 19, effective May 28.

**23-5-117. Governing boards - delegation of personnel power.** The governing board of any state-supported institution of higher education, including the Auraria higher education center established in article 70 of this title, may delegate all or part of its power over personnel matters, including the power to hire or to fire employees exempt from the personnel system, to the chief executive officer of the institution governed by such board. The governing board may authorize the chief executive officer to delegate to other officers of the institution any power so delegated pursuant to this section. The governing board of each state-supported institution of higher education, except the university of Colorado, Colorado state university, the university of northern Colorado, the Colorado school of mines, Fort Lewis college, Adams state university, Colorado Mesa university, Western state Colorado university, or Metropolitan state university of Denver, after consultation with faculty representatives chosen by the faculty, shall prepare, enact, promulgate, administer,

and maintain in place policies and practices which afford due process procedures for those faculty members exempt from the state personnel system who are terminated, including terminations resulting from reductions in force.

**Source:** **L. 85:** Entire section added, p. 767, § 19, effective July 1. **L. 87:** Entire section amended, p. 851, §2, effective May 1. **L. 99:** Entire section amended, p. 217, § 1, effective April 5. **L. 2003:** Entire section amended, p. 794, § 20, effective July 1. **L. 2011:** Entire section amended, (HB 11-1301), ch. 297, p. 1428, § 24, effective August 10; entire section amended, (SB 11-265), ch. 292, p. 1367, § 21, effective August 10. **L. 2012:** Entire section amended, (HB 12-1080), ch. 189, p. 759, § 16, effective May 19; entire section amended, (SB 12-148), ch. 125, p. 426, § 12, effective July 1; entire section amended, (HB 12-1331), ch. 254, p. 1271, § 15, effective August 1; entire section amended, (HB 12-1081), ch. 210, p. 902, § 3, effective August 8.

**Editor's note:** (1) Amendments to this section by House Bill 11-1301 and Senate Bill 11-265 were harmonized.

(2) Amendments to this section by House Bill 12-1080, Senate Bill 12-148, House Bill 12-1331, and House Bill 12-1081 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

## ANNOTATION

**No impermissible delegation of authority** over personnel matters by the state board for community colleges and occupational education when the board ratified and approved reductions in force which involved terminations of faculty members by college presidents. Notice from college presidents of termination due to reduction in force held sufficient since specific requirement that institution provide notice of a reduction in force prevails over general requirement that board give notice of termination. *Craddock v. State Bd. for Cmty. Colls.*, 768 P.2d

716 (Colo. App. 1988) (decided under former § 23-10-102).

**Area vocational school is "institution of higher education"** and therefore subject to "Higher Education Due Process Act"; teachers employed by vocational school entitled to due process procedures under act regarding termination of teachers' contracts. *Burreson v. Boulder Valley Sch. Dist.*, RE-2J, 764 P.2d 412 (Colo. App. 1988) (decided under former § 23-10-102).

**23-5-118. Selective service registration prerequisite to enrollment.** (1) No male person who is at least seventeen years and nine months of age but younger than twenty-six years of age shall be eligible to enroll at any state-supported institution of higher education until such person has filed with such institution a statement of registration compliance. In such statement of registration compliance, the person shall certify, under oath, either that he is registered with the selective service system pursuant to the provisions of section 3 of the "Military Selective Service Act", 50 U.S.C. App. sec. 453, as amended, or that, for any reason specified in 50 U.S.C. App. sec. 453, he is not required to be registered. If the person does not possess a current Colorado driver's license or Colorado state identification card, which was issued on or after September 4, 2001, the state-supported institution of higher education at which the person enrolls shall verify the person's sworn statement of registration compliance. The state-supported institution of higher education may require the person to provide appropriate documentation in order to verify the person's sworn statement of registration compliance. The person shall be given the opportunity to provide the appropriate documentation proving registration compliance to an agent of the state-supported institution of higher education prior to any disciplinary action being taken.

(2) The governing board of each state-supported institution of higher education shall prescribe the form for such statement of registration compliance. Such statement shall be included in applications for admission to the institution for new and transfer students. Such institution shall require any male person who is at least seventeen years and nine months of age but younger than twenty-six years of age and who is currently attending such institution



or has been admitted to such institution but has not given a statement of registration compliance as required by subsection (1) of this section to file a statement of registration compliance when he seeks to enroll for a new academic term.

(3) If a state-supported institution of higher education receives a statement from any person, as required by subsection (1) of this section, certifying that he has registered with the selective service system pursuant to the provisions of section 3 of the "Military Selective Service Act", 50 U.S.C. App. sec. 453, as amended, or that he is exempt from registration for any reason specified in 50 U.S.C. App. sec. 453, other than that he is under seventeen years and nine months of age, such institution shall not require the person to file any further statements. If such institution receives a statement certifying that such person is not required to register pursuant to the provisions of 50 U.S.C. App. sec. 453, because he is under seventeen years and nine months of age, such institution shall require the person to file a new statement of registration compliance each time he seeks to enroll for a new academic term until the institution receives a statement certifying that the person has registered with the selective service system or is exempt from registration for any reason specified in 50 U.S.C. App. sec. 453, other than that he is under seventeen years and nine months of age.

(4) If any person knowingly gives false information in such statement of registration compliance as required pursuant to the provisions of this section, such person commits perjury in the second degree, as defined in section 18-8-503, C.R.S.

(5) If a student knowingly gives false information under the provisions of this section, the student shall be suspended from the state-supported institution of higher education at which the student is enrolled. If a person knowingly gives false information under the provisions of this section and the person is not enrolled as a student at a state-supported institution of higher education, the person shall be prohibited from enrolling as a student at a state-supported institution of higher education. State-supported institutions of higher education shall be required to provide the person a hearing before an appropriate agent of the state-supported institution of higher education to determine if the person has knowingly given false information under the provisions of this section. A student or prospective student who provides false information under the provisions of this section shall not be eligible to enroll or reenroll until the student provides appropriate documentation proving that he is properly registered with the selective service system.

**Source:** L. 87: Entire section added, p. 849, § 1, effective July 1. L. 2003: Entire section amended, p. 2523, § 1, effective January 1, 2004.

### **23-5-119. Colorado legislative distinguished professor fund. (Repealed)**

**Source:** L. 90: Entire section added, p. 1148, § 1, effective May 8. L. 92: Entire section repealed, p. 2198, § 2, effective February 25.

**23-5-119.5. Student fees - legislative declaration - definitions - institutional plans - fee information - reporting.** (1) The general assembly hereby finds that, due to increasing financial restrictions, fees are increasingly being used as sources of revenue for state institutions of higher education. The general assembly further finds that it is important to allow the governing boards flexibility in managing student fees in the manner that is most effective for their respective institutions. However, the general assembly also finds that state institutions of higher education must develop meaningful processes for receiving and considering student input concerning the amount assessed in fees and the purposes for which the institution uses the revenues received. It is therefore the intent of the general assembly that the governing boards adopt policies concerning the definition, assessment, increase, and use of fees, including but not limited to the policies specified in this section, which governing board policies shall be in accordance with the policies adopted by the commission pursuant to section 23-1-105.5.

(2) For purposes of this section:

(a) "Auxiliary facility" has the same meaning as defined in section 23-5-101.5 (2) (a).

(b) "Commission" means the Colorado commission on higher education established in section 23-1-102.

(c) "State institution of higher education" or "institution" means a state-supported institution of higher education in Colorado.

(3) Each governing board is authorized to require students to pay fees to offset costs that are specific to certain courses or programs or that otherwise exceed or are in addition to normal overhead and operating costs that are paid by tuition revenues. Revenues received by a governing board as student fees are not subject to annual appropriation. The costs for which a governing board may impose fees may include, but need not be limited to:

(a) Costs related to the construction, maintenance, furnishing, and equipping of buildings and infrastructure;

(b) Costs that are unique to specific courses or programs and benefit the students who choose to enroll in the course or program;

(c) Costs related to student-centered facilities, services, or activities such as student centers, recreation facilities, technology, parking lots, child care, health clinics, mandatory insurance, student government, and other student organizations or activities;

(d) Costs incurred by an institution that are in addition to the costs of direct delivery of instruction such as registration costs, costs for student orientation and graduation, and costs incurred in communicating with students and their families.

(4) (a) On or before July 1, 2012, each governing board shall adopt for each institution and campus that it governs an institutional plan for student fees. Each governing board shall ensure that the process for developing the plan includes the opportunity for meaningful input from the students enrolled at the affected institution or campus. At a minimum, the fee plan shall specify:

(I) The types and purposes of student fees collected by the institution;

(II) The procedures for establishing, reviewing, changing the amount of, and discontinuing student fees, including the level of student involvement in each process, which, at a minimum, shall include consultation with students whenever possible prior to the establishment of a new fee or the increase of an existing fee;

(III) Procedures by which students may contest the imposition or amount of a fee and a process for resolving disputes regarding fees; and

(IV) A plan for addressing reserve fund balances.

(b) A governing board shall annually review and revise, as necessary, the fee plan for each of the institutions and campuses that it governs. In creating, reviewing, and revising the fee plans, a governing board shall collaborate with the student government organization at the applicable institution or campus. Each governing board shall make the fee plans available to the public on a web site for the respective institution or campus. In addition, each governing board shall annually provide to the department of higher education and the commission a copy of the fee plan for each institution or campus it governs.

(5) The fee plan adopted for each institution pursuant to subsection (4) of this section shall include, but need not be limited to, the following policies:

(a) **Fees related to bonds issued on behalf of auxiliary facilities on or after July 1, 1997.** (I) (A) For any bonds or other debt obligations issued or incurred on or after July 1, 1997, on behalf of an auxiliary facility, the issuing or incurring governing board may assess a user fee against persons using the auxiliary facility that includes the amount necessary for repayment of the bonds or other debt obligations and any amount necessary for the operation and maintenance of the auxiliary facility.

(B) If a governing board uses revenues from a general student fee for the repayment of bonds or other debt obligations issued or incurred pursuant to this paragraph (a), the governing board shall specify the portion of the general student fee that is actually applied to repayment of the bonds or other debt obligations. The itemization of any general student fee, all or a portion of which is used for repayment of bonds or other debt obligations, shall appear on the student billing statement.

(II) The issuing or incurring governing board may, subject to the restrictions specified in paragraph (c) of this subsection (5), pledge any excess revenue received from any user fee assessed pursuant to subparagraph (I) of this paragraph (a) or from any portion of a general student fee applied to the repayment of such bonds or other debt obligations



pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a) to the repayment of any bonds or other debt obligations issued or incurred on behalf of any other auxiliary facility, so long as such pledge of excess revenue from any general student fee authorized for the repayment of bonds or other debt obligations issued or incurred to finance a specific facility shall terminate upon full repayment of all bonds or other debt obligations, including refunding bonds or obligations, and all fees and costs related to such bonds or other debt obligations incurred with respect to such specific facility.

(III) On and after the date upon which all bonds or other debt obligations issued, secured, or incurred pursuant to this paragraph (a) are fully repaid:

(A) The amount of the user fee assessed against persons using the auxiliary facility, if any, shall be reduced, if necessary, so as not to exceed one hundred ten percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year; except that the governing board may reduce the amount of the user fee to an amount not to exceed one hundred twenty percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year and set aside the additional ten percent in a reserve fund for repair and replacement of the auxiliary facility;

(B) The governing board shall cease collecting any portion of a general student fee assessed for the repayment of the bonds or other debt obligations; except that, if no user fee was assessed for the repayment of the bonds or other debt obligations or if the amount of the user fee is less than the costs incurred in operating and maintaining the auxiliary facility during the preceding year, the governing board may continue collecting the specified portion of the general student fee that was applied to repayment of the bonds or other debt obligations so long as said portion of the general student fee is reduced, if necessary, to an amount that, in combination with any user fee collected for the auxiliary facility, does not exceed one hundred ten percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year. Notwithstanding the provisions of this sub-subparagraph (B), the governing board may reduce said portion of the general student fee to an amount that, in combination with any user fee collected for the auxiliary facility, does not exceed one hundred twenty percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year and set aside the additional ten percent in a reserve fund for repair and replacement of the auxiliary facility.

(C) The revenues received pursuant to this subparagraph (III), either through a user fee or through a specified portion of a general student fee, may not be pledged for the repayment of any bonds or other debt obligations issued on behalf of any other auxiliary facility. Any amount of said revenue that exceeds both the amount necessary for the operation and maintenance of the auxiliary facility and any amount set aside in a reserve fund for repair and replacement of the auxiliary facility is surplus and may be used by the governing board as provided in section 23-5-103 (3).

**(b) Fees related to bonds issued on behalf of auxiliary facilities prior to July 1, 1997.** (I) For any bonds or other debt obligations issued or incurred prior to July 1, 1997, on behalf of an auxiliary facility:

(A) Approval of the student body is not required for any fee assessed for repayment of said bonds or other debt obligations;

(B) Approval of the student body is not required to increase any fee that is applied to the repayment of said bonds or other debt obligations if the fee increase is necessitated by a covenant in the authorizing bond resolution or other agreement for which the bonds or other debt obligations were issued or incurred;

(C) Approval of the student body is not required to increase any fee that is applied to the repayment of said bonds or other debt obligations if the fee increase is assessed for the repayment of bonds that are issued to refund the existing bonds.

(II) The issuing or incurring governing board may, subject to the restrictions specified in paragraph (c) of this subsection (5), pledge any excess revenue received from the fee, whether it is a user fee or a portion of a general student fee applied to the repayment of such bonds or other debt obligations, to the repayment of any bonds or other debt obligations issued or incurred on behalf of any other auxiliary facility, so long as such pledge of excess revenue from any general student fee authorized for the repayment of bonds or other debt obligation issued or incurred to finance a specific facility shall terminate upon full

repayment of all bonds or other debt obligations, including refunding bonds or obligations, and all fees and costs related to such bonds or other debt obligations incurred with respect to such specific facility.

(III) On and after the date upon which all bonds or other debt obligations issued, secured, or incurred pursuant to this paragraph (b) are fully repaid:

(A) The amount of the user fee, if any, assessed against persons using the auxiliary facility shall be reduced, if necessary, so as not to exceed one hundred ten percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year; except that the governing board may reduce the amount of the user fee to an amount not to exceed one hundred twenty percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year and set aside the additional ten percent in a reserve fund for repair and replacement of the auxiliary facility;

(B) The governing board shall cease collecting any portion of a general student fee assessed for the repayment of the bonds or other debt obligations; except that, if no user fee was assessed for the repayment of the bonds or other debt obligations or if the amount of the user fee is less than the costs incurred in operating and maintaining the auxiliary facility during the preceding year, the governing board may continue collecting the specified portion of the general student fee that was applied to repayment of the bonds or other debt obligations so long as said portion of the general student fee is reduced, if necessary, to an amount that, in combination with any user fee collected for the auxiliary facility, does not exceed one hundred ten percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year. Notwithstanding the provisions of this subparagraph (B), the governing board may reduce said portion of the general student fee to an amount that, in combination with any user fee collected for the auxiliary facility, does not exceed one hundred twenty percent of the costs incurred in operating and maintaining the auxiliary facility during the preceding year and set aside the additional ten percent in a reserve fund for repair and replacement of the auxiliary facility.

(C) The revenues received pursuant to this subparagraph (III), either through a user fee or through a specified portion of a general student fee, may not be pledged for the repayment of any bonds or other debt obligations issued on behalf of any other auxiliary facility. Any amount of said revenue that exceeds both the amount necessary for the operation and maintenance of the auxiliary facility and any amount set aside in a reserve fund for repair and replacement of the auxiliary facility is surplus and may be used by the governing board as provided in section 23-5-103 (3).

(c) **Restrictions on pledging of amounts received in fees.** (I) Subject to the provisions of paragraphs (a) and (b) of this subsection (5), a user fee that is assessed against persons using an auxiliary facility that is not designated as an enterprise pursuant to section 23-5-101.5 may be pledged for the repayment of bonds or other debt obligations issued or incurred on behalf of any other auxiliary facility that is not designated as an enterprise, as provided in sections 23-5-102 and 23-5-103.

(II) Subject to the provisions of paragraphs (a) and (b) of this subsection (5), a user fee that is assessed against persons using an auxiliary facility that is designated as an enterprise by the university of Colorado pursuant to section 23-5-101.5 may be pledged for the repayment of bonds or other debt obligations issued or incurred on behalf of another auxiliary facility that is designated as an enterprise by the university of Colorado, as provided in sections 23-5-102 and 23-5-103.

(III) A governing board may not pledge a user fee assessed against persons using an auxiliary facility that is not designated as an enterprise for repayment of bonds or other debt obligations issued or incurred on behalf of any auxiliary facility that is designated as an enterprise or on behalf of the institution with which the auxiliary facility is associated. Except as otherwise provided in subparagraph (II) of this paragraph (c), a governing board may not pledge a user fee assessed against persons using an auxiliary facility that is designated as an enterprise pursuant to section 23-5-101.5 for the repayment of bonds or other debt obligations issued or incurred on behalf of any other auxiliary facility, regardless of whether the other auxiliary facility is designated as an enterprise, or on behalf of the institution with which the auxiliary facility is associated.



(d) **Itemization of bond fees.** Every fee, the purpose of which includes making payments on bonds or other obligations, shall be separately itemized on the student billing statement.

(6) (a) As soon as practicable following August 10, 2011, each governing board shall make reasonable efforts to provide on the web site for each institution or campus it governs current information about the tuition rates and fees, including information concerning the purposes of the fees, charged by the institution or campus; except that the institution or campus may provide information about fees that are specific to courses or programs either on its web site or in the most recent course catalog, whichever is appropriate.

(b) As soon as practicable following August 10, 2011, each governing board shall make reasonable efforts to provide a function for calculating tuition and fees on the web site of each institution or campus it governs to assist students in estimating their annual and total cost of attendance at the institution or campus.

(c) Beginning with the 2011-12 academic year, each governing board shall ensure that the tuition bill for each student enrolled in an institution or campus governed by the governing board includes a clear itemization of the fees charged to the student.

(7) In establishing fees, a governing board shall comply with the procedures specified in the fee plan for the applicable institution or campus. In addition, the governing board shall provide to students at least thirty days' advance notice of a new fee assessment or fee increase, which notice, at a minimum, specifies:

(a) The amount of the new fee or of the fee increase;

(b) The reason for the new fee or fee increase;

(c) The purpose for which the institution will use the revenues received from the new fee or fee increase; and

(d) Whether the new fee or fee increase is temporary or permanent and, if temporary, the expected date on which the new fee or fee increase will be discontinued.

(8) A decision by a governing board with regard to a fee shall be final and incontestable either on the thirtieth day after final action by the governing board or on the date on which any evidence of indebtedness or other obligation payable from the fee revenues is issued or incurred by the governing board, whichever is earlier.

**Source: L. 2011:** Entire section added, (HB 11-1301), ch. 297, p. 1411, § 2, effective August 10.

**23-5-120. Student fees - deposit - interest.** (1) Student fees imposed by a governing board for a student association or student government at a state-supported institution of higher education and collected from students enrolled in such institution shall be deposited in a separate fund of the institution to be used for the purposes for which the fees were charged. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(2) Nothing in this section shall limit the authority of the governing board of any state-supported institution of higher education to pledge moneys in the fund described in subsection (1) of this section for any of the purposes permitted under section 23-5-103 if the student action authorizing such fees contemplated such pledge.

**Source: L. 90:** Entire section added, p. 1141, § 6, effective July 1.

**23-5-121. Governing boards - authority to establish nonprofit corporations for developing discoveries and technology.** (1) The general assembly recognizes that the transfer of newly created technologies from university research to the private sector and the resulting potential creation and expansion of Colorado companies are essential to the economic growth of this state, promote the public good, and should be encouraged. The general assembly further recognizes that a valid public purpose will be furthered and a commitment to the economic growth of this state demonstrated by empowering the governing boards of the state-supported institutions of higher education and the Colorado commission on higher education, referred to in this section as the "commission", to

establish nonprofit corporations to effect such a transfer and development and by empowering the governing boards of the state-supported institutions of higher education to cooperate with the private sector.

(2) The governing board of any state-supported institution of higher education or the commission may incorporate one or more private nonprofit corporations under articles 121 to 137 of title 7, C.R.S., for the purpose of developing discoveries and technology resulting from science and technology research at such state-supported institution of higher education. Such a corporation shall have all rights and powers of a private nonprofit corporation organized under the laws of this state and shall not be an agency of state government or a department or political subdivision thereof and shall not be subject to any provisions of law affecting only governmental or public entities; except that provisions as provided for in section 23-1-108 (1) (f) regarding affirmative action shall be followed.

(3) The governing board of any state-supported institution of higher education or the commission may transfer to a corporation incorporated pursuant to subsection (2) of this section all rights to discoveries and technologies resulting from science and technology research at such state-supported institution of higher education. Such transfer may be made in consideration of the corporation's undertaking to develop the technology for the benefit of the state-supported institution of higher education and the state. Any such rights to discoveries and technologies that are transferred to the corporation by a governing board or by the commission shall not be further transferred by the corporation without adequate consideration being received therefor.

(4) Prior to the transfer to a corporation incorporated pursuant to subsection (2) of this section of all rights to discoveries and technologies resulting from science and technology research at any state-supported institution of higher education, the governing board of such state-supported institution of higher education or the commission shall enter into an agreement with said corporation that shall include the terms of financial remuneration due the institution or the commission.

(5) As a means of carrying out the purposes stated in this section, the governing board of any state-supported institution of higher education or the commission may, through one or more corporations incorporated pursuant to subsection (2) of this section:

(a) Own and license rights to products, technology, and scientific information;

(b) Own shares in corporations engaged in the development, manufacture, or marketing of products, technology, or scientific information under a license from the governing board or the commission or a corporation incorporated pursuant to subsection (2) of this section;

(c) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation formed for that purpose, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, or scientific information under a license from the board or the commission or a corporation incorporated pursuant to subsection (2) of this section; except that the governing board shall be subject to the provisions of section 24-113-104, C.R.S., regarding competition with private enterprise by institutions of higher education;

(d) Develop economic incentives for faculty members and other employees of the state-supported institution of higher education or the commission in order to encourage development of technology, which may include assignment of a share of the royalty payments, payment of supplemental compensation, or such other economic incentives as will in the judgment of the governing board or the commission best promote the purposes of this section;

(e) In the case of a governing board of a state-supported institution of higher education, cooperate with the commission and the office of information technology created in the office of the governor in technology transfers pursuant to section 23-1-106.7;

(e.5) In the case of the commission, accept donations, income or other revenues and make grants to support commission programs; and

(f) Carry on such other activities as the governing board or the commission may deem appropriate for achieving the purposes of this section.

(6) At the discretion of the governing board of the state-supported institution of higher education, research facilities and personnel at their own institutions or campuses may be utilized to achieve the purposes of this section.



(7) The state of Colorado or state-supported institution or the commission shall not be held responsible for any debt or liability incurred by the corporation created pursuant to subsection (2) of this section.

**Source:** **L. 91:** Entire section added, p. 552, § 1, effective April 19. **L. 93:** Entire section amended, p. 638, § 1, effective April 30. **L. 97:** (2) amended, p. 763, § 34, effective July 1, 1998. **L. 99:** (2) amended, p. 850, § 6, effective May 24; entire section amended, p. 882, § 9, effective July 1. **L. 2000:** Entire section amended, p. 412, § 3, effective April 13. **L. 2006:** (5)(e) amended, p. 1734, § 16, effective June 6.

**Editor's note:** Subsection (2) was amended in Senate Bill 99-203. Those amendments were superseded by the amendment of the entire section in House Bill 99-1359, effective July 1, 1999.

**23-5-122. Intrainstitutional and intrasystem transfers - course scheduling.** (1) On or before October 1, 1993, the governing board of every state-supported institution of higher education shall have in place and enforce policies regarding transfers by students between undergraduate degree programs which are offered within the same institution or within the same institutional system. Such policies shall include, but shall not be limited to, the following provisions:

(a) If, not more than ten years prior to transferring into an undergraduate degree program, a student earns credit hours which are required for graduation from such undergraduate degree program, such credit hours shall apply to the completion of such student's graduation requirements from such undergraduate degree program following such transfer;

(b) A student who transfers into an undergraduate degree program shall not be required to complete a greater number of credit hours in those courses which are required for graduation from such undergraduate degree program than are required of students who began in such undergraduate degree program, nor shall there be any minimum number of credit hours required post-transfer other than the normal degree requirements for nontransferring students; and

(c) The grade point average which is required for a student to apply for and be fully considered for transfer into an undergraduate degree program shall be no higher than that which is required for graduation from such undergraduate degree program.

**Source:** **L. 93:** Entire section added, p. 2126, § 8, effective June 11.

**23-5-123. Sabbatical leave - legislative declaration - policy - production of records.** (1) The general assembly hereby recognizes the necessity of maintaining a high caliber of faculty within the state system of higher education and the importance of the faculty's contribution in delivering quality education within the state system of higher education. The general assembly recognizes that faculty sabbaticals play an important role in developing and enhancing faculty expertise, thereby supporting faculty excellence in teaching and research. The general assembly also recognizes that a faculty sabbatical is a privilege, rather than a right, and should be granted only when it results in adding value to the institution, the students' education, and the state. The general assembly therefore declares that state-supported institutions of higher education should judiciously grant faculty sabbaticals that will improve excellence within the state system of higher education and will thereby benefit the state.

(2) (a) On or before October 1, 1994, the governing board of each state-supported institution of higher education shall have in place and shall enforce policies regarding faculty sabbaticals, including but not limited to the policies specified in this subsection (2).

(b) Effective October 1, 1994, a governing board of an institution of higher education may not authorize a sabbatical or extended administrative paid leave for any person holding an administrative position at a state-supported institution of higher education; except that a governing board may, for a reasonable period of time, authorize administrative paid leave for disciplinary or investigatory purposes.

(c) A governing board may not grant a sabbatical for any faculty member more often than once every seven years.

(d) Prior to taking a sabbatical, a faculty member shall submit to the governing board of the institution that employs the faculty member a detailed sabbatical plan that:

(I) Specifies how the sabbatical activity will result in the faculty member's professional growth, how it will enhance the institution's reputation and the students' educational experience at the institution, and how it will increase the overall level of knowledge in the faculty member's area of expertise;

(II) Specifies the goals that the faculty member will achieve while on sabbatical.

(e) A governing board may not grant a subsequent sabbatical to any faculty member who does not meet the goals stated in the faculty member's sabbatical plan.

(f) The governing board of each institution shall approve any sabbaticals taken by faculty at the institution in advance. In approving a sabbatical, the governing board shall consider the quality of the faculty member's proposed activities while on sabbatical, the individuals who will be involved in such activities, and the benefits to be received from such activities by the faculty member, the institution, and the students at the institution.

(g) Upon completion of a sabbatical, the faculty member shall submit a final sabbatical report to the governing board of the institution that employs the faculty member, including a summary of the faculty member's activities while on sabbatical and the benefits derived by the faculty member. Final sabbatical reports need not include specific details of the faculty member's research conducted while on sabbatical. Final sabbatical reports are open records pursuant to section 24-72-203, C.R.S., and may not be included in the faculty member's personnel file.

(h) Each participant in the sabbatical process is responsible for ensuring that each sabbatical meets the requirements of this section and any other requirements that may be included in the appropriate governing board's sabbatical policy. Each governing board shall specify a mechanism to hold each participant in the sabbatical process accountable for meeting the sabbatical policy requirements.

(3) Each governing board shall produce all sabbatical records for all approved sabbaticals and a list of all disapproved sabbaticals for inspection by the joint budget committee, the education committees of the senate and the house of representatives, and the Colorado commission on higher education upon request. In addition, each governing board shall distribute copies of the sabbatical policies developed by each governing board pursuant to this section, with amendments as necessary, to the education committees of the senate and the house of representatives and to the Colorado commission on higher education.

**Source: L. 94:** Entire section added, p. 830, § 1, effective April 28.

### **23-5-124. Student enrollment - prohibition - public peace and order convictions.**

(1) No person who is convicted of a riot offense shall be enrolled in a state-supported institution of higher education for a period of twelve months following the date of conviction.

(2) A student who is enrolled in a state-supported institution of higher education and who is convicted of a riot offense shall be immediately suspended from the institution upon the institution's notification of such conviction for a period of twelve months following the date of conviction; except that if a student has been suspended prior to the date of conviction by the state-supported institution of higher education for the same riot activity, the twelve month suspension shall run from the start of the suspension imposed by the institution.

(3) Nothing in this section shall be construed to prohibit a state-supported institution of higher education from implementing its own policies and procedures or disciplinary actions, in addition to the suspension in subsection (2) of this section, regarding students involved in riots.

(4) (a) The court in each judicial district shall report to the Colorado commission on higher education the name of any person who is convicted in the judicial district of a riot offense.



(b) The Colorado commission on higher education shall make the conviction reports received pursuant to paragraph (a) of this subsection (4) available to all state-supported institutions of higher education with the notification that the persons included in the conviction reports are subject to the provisions of this section and that the state-supported institution of higher education in which any of such persons are enrolled shall consider appropriate disciplinary action against the student.

(5) Each state-supported institution of higher education shall notify its students and prospective students of the requirements of this section. The governing board of each state-supported institution of higher education shall prescribe the manner in which this information shall be disseminated.

(6) For purposes of this section, unless the context otherwise requires:

(a) "Convicted" means having received a verdict of guilty, pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(b) "Riot offense" means:

(I) Inciting riot, as described in section 18-9-102, C.R.S.;

(II) Arming rioters, as described in section 18-9-103, C.R.S.;

(III) Engaging in a riot, as described in section 18-9-104, C.R.S.

(c) "State-supported institution of higher education" means any postsecondary institution that is governed by:

(I) The board of governors of the Colorado state university system;

(II) The board of regents of the university of Colorado;

(III) The board of trustees of the Colorado school of mines;

(IV) The board of trustees for the university of northern Colorado;

(V) (Deleted by amendment, L. 2003, p. 790, § 10, effective July 1, 2003.)

(VI) The state board of community colleges and occupational education;

(VII) The board of any junior college district in Colorado;

(VIII) The board of trustees for Adams state university;

(IX) The board of trustees for Colorado Mesa university;

(X) The board of trustees for Western state Colorado university;

(XI) The board of trustees for Fort Lewis college; or

(XII) The board of trustees for Metropolitan state university of Denver.

**Source:** **L. 2002:** Entire section added, p. 1134, § 1, effective June 3. **L. 2003:** (6)(c)(I), (6)(c)(VI), and (6)(c)(VII) amended and (6)(c)(XI) and (6)(c)(XII) added, p. 1994, § 38, effective May 22; (6)(c) amended, p. 790, § 10, effective July 1. **L. 2011:** (6)(c)(IX) amended, (SB 11-265), ch. 292, p. 1367, § 22, effective August 10. **L. 2012:** (6)(c)(VIII) amended, (HB 12-1080), ch. 189, p. 759, § 17, effective May 19; (6)(c)(XII) amended, (SB 12-148), ch. 125, p. 427, § 13, effective July 1; (6)(c)(X) amended, (HB 12-1331), ch. 254, p. 1271, § 16, effective August 1.

**Editor's note:** (1) Subsections (6)(c)(XI) and (6)(c)(XII) were originally numbered as (6)(c)(VIII) and (6)(c)(IX), respectively, in House Bill 03-1344, but were renumbered on revision for ease of location.

(2) Amendments to subsection (6)(c) by House Bill 03-1093 and House Bill 03-1344 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (6)(c)(IX), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (6)(c)(XII), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-5-125. Campus sex offender information.** Each institution of postsecondary education in the state shall provide a statement to its campus community identifying the name and location at which members of the community may obtain the law enforcement agency information collected pursuant to section 16-22-110 (3.5), C.R.S., concerning registered sex offenders.

**Source: L. 2002:** Entire section added, p. 1201, § 2, effective July 1; entire section amended, p. 1192, § 39, effective July 1.

**Editor's note:** This section was originally numbered as 23-5-124 in House Bill 02-1114, but was renumbered on revision for ease of location.

**23-5-126. Governing boards - anti-terrorism measures.** (1) The Colorado commission on higher education in consultation with each governing board shall adopt such guidelines and policies, no later than December 1, 2002, as may be necessary to provide all lawful information requested by the federal bureau of investigation, the central intelligence agency, the department of homeland security, or any other federal agency in connection with an anti-terrorism investigation. The guidelines and policies shall include requiring each state-supported institution of higher education to verify and report the status of all foreign students, as required by the department of homeland security, or any other federal agency.

(2) The administrators at each state-supported institution of higher education shall cooperate with and provide, in an immediate manner, all lawful information requested by the federal bureau of investigation, the central intelligence agency, the department of homeland security, or any other federal agency in connection with an anti-terrorism investigation.

**Source: L. 2002:** Entire section added, p. 999, § 1, effective June 1. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1162, § 50, effective August 10.

**Editor's note:** This section was originally numbered as 23-5-124 in Senate Bill 02-113, but was renumbered on revision for ease of location.

**23-5-127. Unique student identifying number - social security number - prohibition.** (1) Each postsecondary institution in Colorado shall assign to each student enrolled in the institution a unique primary identifier that may be a series of numbers or characters.

(2) On and after July 1, 2003, each postsecondary institution in Colorado shall take reasonable and prudent steps to ensure the privacy of a student's social security number.

(3) (a) On and after July 1, 2004, a postsecondary institution in Colorado shall not use a student's social security number or part of a student's social security number as the student's primary identifier.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), the Colorado commission on higher education may allow a postsecondary institution in Colorado to use a student's social security number or part of a student's social security number as the student's primary identifier if:

(I) The institution demonstrates to the satisfaction of the commission that the institution is unable to comply with the provisions of paragraph (a) of this subsection (3) because of the financial cost of compliance; and

(II) The institution submits to the commission and the commission approves a plan and timetable for phasing out the use of a student's social security number or part of a student's social security number as the student's primary identifier.

(4) (a) Notwithstanding the provisions of paragraph (b) of subsection (3) of this section, for each student who graduates from or was enrolled in a Colorado high school, a postsecondary institution in Colorado that is eligible for the college opportunity fund program created in section 23-18-201 shall use the unique student identifier assigned, in accordance with rules adopted pursuant to section 22-11-104, C.R.S., to the student while he or she was enrolled in the elementary to secondary public education system, including public prekindergarten programs, as an alternative student identifier at the postsecondary institution.

(b) Adams state university, Colorado Mesa university, Western state Colorado university, and Metropolitan state university of Denver shall implement the provisions of paragraph (a) of this subsection (4) on or before July 1, 2008. All other postsecondary institutions shall implement the provisions of paragraph (a) of this subsection (4) on or before July 1, 2009.



**Source:** **L. 2003:** Entire section added, p. 1042, § 1, effective April 17. **L. 2006:** (4) added, p. 715, § 1, effective July 1. **L. 2007:** (4)(b) amended, p. 1065, § 4, effective May 23. **L. 2009:** (4)(a) amended, (SB 09-163), ch. 293, p. 1546, § 56, effective May 21. **L. 2011:** (4)(b) amended, (SB 11-265), ch. 292, p. 1368, § 23, effective August 10. **L. 2012:** (4)(b) amended, (HB 12-1080), ch. 189, p. 760, § 18, effective May 19; (4)(b) amended, (SB 12-148), ch. 125, p. 427, § 14, effective July 1; (4)(b) amended, (HB 12-1331), ch. 254, p. 1271, § 17, effective August 1.

**Editor's note:** Amendments to subsection (4)(b) by House Bill 12-1080, Senate Bill 12-148, and House Bill 12-1331 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (4)(b), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (4)(b), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-5-128. Meningococcal disease - information - immunity.** (1) As used in this section:

(a) "Institution" means any public or nonpublic postsecondary education institution in the state.

(b) "New student" means each incoming freshman student residing in student housing, as defined by the institution, or any student who the institution requires to complete and return a standard certificate indicating immunizations received by the student as a requirement for residing in student housing.

(2) (a) On and after July 1, 2005, each institution shall provide to each new student, or, if a new student is under the age of eighteen years, to the student's parent or guardian, information concerning meningococcal disease, including but not limited to the following:

(I) (A) Meningococcal disease is a serious disease;

(B) Meningococcal disease is a contagious, but a largely preventable, infection of the spinal cord fluid and the fluid that surrounds the brain;

(C) Scientific evidence suggests that college students living in dormitory facilities are at a modestly increased risk of contracting meningococcal disease; and

(D) Immunization against meningococcal disease decreases the risk of contracting the disease.

(II) Web site addresses, telephone numbers, or other similar information to assist a new student or the student's parent or legal guardian in identifying a location or locations where the new student may receive an immunization against meningococcal disease.

(b) An institution may provide the information required by subparagraph (I) of paragraph (a) of this subsection (2) exactly as written or through similar language that reasonably meets the intent of the notification requirement and is based upon established and scientifically recognized medical or epidemiological data.

(3) On and after July 1, 2005, each institution shall require each new student who has not received a vaccination against meningococcal disease, or, if the new student is under the age of eighteen years, the student's parent or guardian, to check a box on a document provided by the institution stating that the signor has reviewed the information provided pursuant to subsection (2) of this section and has decided that the new student will not obtain a vaccination against meningococcal disease. An institution may include the acknowledgment required in this section on another signed document used to collect health or housing information that must be returned to the institution and that the institution is already required to retain for other purposes regarding the student's health or housing.

(4) Nothing in this section shall be construed to:

(a) Require a student who is planning to reside in student housing to obtain the vaccination against meningococcal disease;

(b) Require an institution to provide or pay for the vaccination of a student; or

(c) Prohibit an institution from establishing additional requirements concerning meningococcal vaccination.

(5) An institution that has made a reasonable effort to comply with this section shall not be liable for damages for injuries sustained by a student as a result of contracting

meningococcal disease where the student's claim is based solely upon the provision of the information required by paragraph (a) of subsection (2) of this section.

**Source: L. 2004:** Entire section added, p. 484, § 1, effective August 4.

**23-5-129. Governing boards - performance contract - authorization - operations.**

(1) As used in this section, unless the context otherwise requires:

(a) "Private institution of higher education" shall have the same meaning as provided in section 23-18-102 (9).

(b) "State institution of higher education" shall have the same meaning as provided in section 23-18-102 (10); except that "state institution of higher education" shall include each junior college that is part of a junior college district organized pursuant to article 71 of this title and the area vocational schools, as defined in section 23-60-103.

(c) "Unfunded enrollment growth" means the amount of enrollment growth calculated pursuant to subsection (8) of this section that has not been funded for each governing board from state fiscal year 2000-01 through 2004-05.

(2) (a) Beginning July 1, 2004, each governing board of a state institution of higher education shall negotiate a performance contract with the department of higher education that shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. A state institution of higher education's compliance with the goals specified in the performance contract may be in lieu of the requirements of article 1 of this title for the period of the performance contract.

(b) If a private institution of higher education plans to accept stipends paid on behalf of eligible undergraduate students pursuant to article 18 of this title, the private institution of higher education shall negotiate a performance contract with the department of higher education, which shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract.

(c) The specified procedures and goals set forth in the performance contract shall be measurable and tailored to the role and mission of each institution that is under the direction and control of the governing board, and may include, but shall not be limited to:

- (I) Improving Colorado residents' access to higher education;
- (II) Improving quality and success in higher education;
- (III) Improving the efficiency of operations; and
- (IV) Addressing the needs of the state.

(d) To measure progress toward the goals specified in the performance contract, the following issues may be addressed:

(I) Appropriate levels of student enrollment, transfer, retention, and graduation rates and institutional programs specifically designed to assist students in achieving their academic and, in the case of community colleges, vocational goals;

(II) Student satisfaction and student performance after graduation, measured by indicators appropriate to the institutional role and mission, such as employment or enrollment in graduate programs;

(III) Comparative cost and productivity data in relation to peer institutions;

(IV) Assessment of the quality of the institution's academic and, where relevant, vocational programs, including assessment by external reviewers, such as accreditation boards and employers, and consideration of student performance on national examinations; and

(V) Increasing financial support to sustain and enhance essential functions that may be partially state funded, including but not limited to:

(A) The provision of need-based and other student financial aid;

(B) In the case of a state institution of higher education, capital construction;

(C) Assessment of financial indicators compared to national benchmarks commonly used to measure financial performance in higher education according to the type of institution; and

(D) Increasing financial support to sustain and enhance the educational mission of the institution and, in the case of institutions with a research mission, increasing public and private research capabilities and competitiveness.



(e) Notwithstanding any other provision of this section to the contrary, increasing enrollment of underserved students, including low-income individuals, minority groups, and males where underserved, shall be addressed in each performance contract.

(f) Notwithstanding any provision of this subsection (2) to the contrary, the provisions of this subsection (2) shall not apply to the performance contract with the Colorado school of mines, authorized by section 23-41-104.6, that is in place on July 1, 2004, until the department of higher education renegotiates the performance contract with the school of mines, to take effect no later than December 1, 2012.

(3) All performance contracts between the department of higher education and any state or private institution of higher education shall be reviewed and approved by the Colorado commission on higher education before the contract may become effective.

(4) Repealed.

(5) (a) Beginning January 2006, and each January thereafter, the department of higher education shall report to the members of the education committees of the senate and the house of representatives and the members of the joint budget committee of the general assembly the financial effect of the provisions of each performance contract with regard to funding for the affected governing board of a state institution of higher education and overall funding for the statewide system of higher education and a review of each state or private institution's operations under the institution's performance contract. The term of a performance contract may be up to ten years. The department of higher education may renew a performance contract at its discretion, with the agreement of the governing board.

(a.5) Notwithstanding any provision of paragraph (a) of this subsection (5) to the contrary, the performance contracts in effect as of July 1, 2010, shall remain in effect until renegotiated as provided in section 23-1-108 (1.5) no later than December 1, 2012.

(b) Beginning January 2006, and each January thereafter, data collected and used to measure a state or private institution of higher education's progress towards the goals set forth in the institution's performance contract with the department of higher education shall be made available to the members of the education committees of the house of representatives and the senate, members of the joint budget committee, each governing board, and each institution of higher education covered by a performance contract. The department of higher education shall also provide copies of the data to other members of the general assembly and members of the public on request.

(6) While operating pursuant to a performance contract negotiated pursuant to this section, the governing board of a state institution of higher education:

(a) Shall continue to operate as the governing board for the institution. In addition, at the request of the governing board, the governor may appoint additional advisory members to the governing board to sustain and enhance the role and mission of the institution. Additional members of the governing board shall serve as nonvoting members of the board and shall serve without compensation. The role of the advisory members shall be to improve the governing board's opportunities to develop and enrich the academic and research programs at the institution.

(b) Need not consult with nor obtain approval from the Colorado commission on higher education to create, modify, or eliminate academic and vocational programs offered by the institution, so long as such creations, modifications, and eliminations are consistent with the institution's statutory role and mission. Institutions shall submit information to the department demonstrating that the creation or modification of an academic or career and technical education program is consistent with the institution's statutory role and mission. The Colorado commission on higher education shall have the authority to override the creation or modification of an academic or vocational program if the change made by the governing board is inconsistent with the institution's statutory role and mission.

(c) Shall report to the Colorado commission on higher education its plans for any tuition or other proposed increases for the following fiscal year, using approved forms, for the commission to review and make recommendations to the general assembly during the annual budget process; except that the provisions of this paragraph (c) shall not apply for fiscal years 2011-12 through 2015-16.

(7) While operating pursuant to a performance contract negotiated pursuant to this section, a state institution of higher education shall:

(a) Remain eligible for state-funded capital construction projects and controlled maintenance projects as provided in section 23-1-106;

(b) Continue to admit Colorado resident applicants within the requirements of section 23-1-113.5 who meet the admissions criteria of the institution.

(8) The Colorado commission on higher education, in consultation with the governing boards, shall calculate the amount of unfunded enrollment growth. During the period that a governing board is operating pursuant to a performance contract negotiated pursuant to this section, the Colorado commission on higher education may request, as part of the annual budget cycle, a general fund appropriation for each governing board for the amount of unfunded enrollment growth, to the extent that there remains an amount of enrollment growth that is unfunded for the governing board.

(9) (Deleted by amendment, L. 2011, (SB 11-052), ch. 232, p. 998, § 3, effective May 27, 2011; (HB 11-1303), ch. 264, p. 1162, § 51, effective August 10, 2011.)

(10) While a state institution of higher education is operating pursuant to a performance contract negotiated pursuant to this section, the general assembly retains the authority to approve tuition spending authority for the governing board of the institution; except that the provisions of this subsection (10) shall not apply for fiscal years 2011-12 through 2015-16.

(11) Notwithstanding any provision of this section to the contrary, the provisions of subsections (6), (7), and (10) of this section do not apply to the local district junior colleges or the area vocational schools.

**Source:** **L. 2004:** Entire section added, p. 712, § 3, effective July 1. **L. 2005:** (2)(e) and (6)(c) amended, p. 1015, § 8, effective June 2. **L. 2008:** (6)(b) amended, p. 1479, § 20, effective May 28. **L. 2010:** (4) repealed and (6)(c) and (10) amended, (SB 10-003), ch. 391, pp. 1847, 1841, §§ 21, 6, effective June 9. **L. 2011:** (1)(b), (2)(a), (2)(f), (5)(a), and (9) amended and (5)(a.5) and (11) added, (SB 11-052), ch. 232, pp. 998, 999, §§ 3, 4, effective May 27; (5)(a) and (9) amended, (HB 11-1303), ch. 264, p. 1162, § 51, effective August 10.

**Cross references:** For the legislative declaration contained in the 2004 act enacting section, see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act repealing subsection (4) and amending subsections (6)(c) and (10), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsections (1)(b), (2)(a), (2)(f), (5)(a), and (9) and adding subsections (5)(a.5) and (11), see section 1 of chapter 232, Session Laws of Colorado 2011.

**23-5-130. Governing boards - fee-for-service contracts - authorization.** (1) As used in this section, unless the context otherwise requires:

(a) "Commission" shall have the same meaning as provided in section 23-18-102 (3).

(b) "Department" shall have the same meaning as provided in section 23-18-102 (4).

(c) "State institution of higher education" shall have the same meaning as provided in section 23-18-102 (10).

(2) Beginning July 1, 2005, the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the department for the delivery of higher education services by the institution to the residents of the state of Colorado. These services may include, but need not be limited to:

(a) Educational services in rural areas or communities in which the cost of delivering the educational services is not sustained by the amount received in student tuition;

(b) to (d) Repealed.

(e) Educational services required of the commission to meet its obligations under reciprocal agreements pursuant to section 23-1-112;

(f) Graduate school services;

(g) Educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining; and

(h) Specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering and programs that address identified state or national priorities.



(3) It is the intent of the general assembly that any institution under the direction and control of a governing board that enters into a fee-for-service contract for basic skills courses not charge a student more for a basic skills course than the student would otherwise pay per credit hour for any general education course.

**Source:** **L. 2004:** Entire section added, p. 712, § 3, effective July 1. **L. 2005:** (2)(b), (2)(c), (2)(d), and (2)(h) amended, p. 1015, § 7, effective June 2.

**Editor's note:** Subsections (2)(b)(II), (2)(c)(II), and (2)(d)(II) provided for the repeal of subsections (2)(b), (2)(c), and (2)(d), respectively, effective July 1, 2006. (See L. 2005, p. 1015.)

**Cross references:** For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2004.

**23-5-130.5. Governing boards - tuition-setting - repeal.** (1) Beginning with the 2011-12 fiscal year and for fiscal years thereafter through the 2015-16 fiscal year, each governing board, for the institutions it controls, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend the institutions. The tuition amount may vary based on the degree program in which a student enrolls.

(2) (a) In setting the amount of tuition pursuant to this section, a governing board shall not increase the tuition rate for undergraduate students with in-state classification by more than nine percent per student or nine percent per credit hour over the tuition rate for the preceding fiscal year; except that a governing board may increase said tuition rate by more than nine percent per student or nine percent per credit hour over the tuition rate for the preceding fiscal year if the governing board complies with the requirements specified in subsection (3) of this section and the Colorado commission on higher education, referred to in this section as the "commission", approves the increase.

(b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, the board of trustees of the Colorado school of mines shall not increase the tuition rate for undergraduate students with in-state classification by more than nine percent per student or nine percent per credit hour over the tuition rate for the preceding fiscal year or by more than a percentage equal to two times the rate of the percentage change in the consumer price index for the Denver metropolitan area, whichever is greater; except that the board of trustees may increase said tuition rate by more than either of said percentages if the board of trustees complies with the requirements specified in subsection (3) of this section and the commission approves the increase.

(3) A governing board that seeks to increase undergraduate, resident tuition by more than the percentages allowed in subsection (2) of this section shall submit to the commission a five-year financial and accountability plan in accordance with timelines adopted by the commission. The financial and accountability plan shall specify for each of the five fiscal years immediately following the fiscal year in which the governing board submits the plan:

(a) The amount of the increase in undergraduate, resident tuition that the governing board is requesting;

(b) The manner in which the governing board shall ensure that enrollment in the institution continues to be accessible and affordable for low- and middle-income students in the next following five academic years, taking into account the availability of federal, state, institutional, and private moneys for financial assistance, and measures the governing board shall implement to help reduce student debt load, including but not limited to the amount of institutional funds the governing board will allocate to need-based financial assistance;

(c) The manner in which the governing board shall specifically address the needs of students who graduate from Colorado high schools and are enrolling as first-time freshmen students and meet one or more of the following criteria:

(I) The student's family is low-income and the student is likely to incur significant student debt in attending an institution of higher education;

(II) The student's parents did not attend postsecondary education and may not have graduated from high school;

(III) The student is a member of an underrepresented population; or

(IV) The student has limited access to technologies to support learning.

(d) The manner in which the governing board is implementing the flexibility provided with regard to purchasing, central services, and other operations to ensure greater institutional efficiencies;

(e) Measures the governing board shall implement to ensure that any operational changes described in paragraph (d) of this subsection (3) do not reduce the level of service and the quality of academic programs provided to students enrolled in the state institution of higher education; and

(f) Any additional information requested by the commission.

(4) (a) The commission shall review each financial and accountability plan received pursuant to subsection (3) of this section and, within ninety days after receiving the plan, either approve or disapprove the governing board's request for an increase in undergraduate, resident tuition in excess of the percentages allowed in subsection (2) of this section. In approving a tuition increase, the commission may approve the request for two years and make approval for the subsequent three years conditional upon the governing board's success in implementing the measures specified in the financial and accountability plan. If the request is denied, the governing board may submit an alternative financial and accountability plan to the commission in accordance with timelines adopted by the commission.

(b) If the commission denies the request, the governing board shall not implement the proposed tuition increase but may increase undergraduate, resident tuition in accordance with the percentages allowed in subsection (2) of this section for the following fiscal year. A governing board may resubmit its request for an increase in undergraduate, resident tuition in excess of the percentages allowed in subsection (2) of this section, with the financial and accountability plan, in any subsequent fiscal year following a denial.

(5) This section is repealed, effective July 1, 2016.

**Source: L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1837, § 3, effective June 9.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-5-131. Governing boards - tuition - fixed rate contract.** (1) As used in this section, unless the context otherwise requires:

(a) "Commission" means the Colorado commission on higher education.

(b) "Fixed rate" means the fixed tuition rate specified in a contract between a state-supported institution of higher education and a student enrolled in the institution.

(c) "Program" means the fixed tuition rate program.

(d) "Student" means a student who is classified for tuition purposes as an in-state student.

(2) There is hereby established a fixed tuition rate program. The governing board of each state-supported institution of higher education that has been designated as an enterprise pursuant to section 23-5-101.7 may offer a fixed tuition rate to a student who is willing to enter into a contract with the institution for the fixed rate. A fixed-rate contract shall also specify the amount of the student fees collected by the institution as of the date of the contract and shall inform the student that the amount of student fees may increase over the term of the contract in accordance with the institution's student fee plan adopted pursuant to section 23-5-119.5.

(3) If a student is unable to complete a degree program within the duration of the fixed-rate contract because a course is unavailable due to a lack of available classes or class space, the state-supported institution of higher education shall provide the course to the student free of charge.



(4) (a) Each governing board that is participating in the program shall establish guidelines for each institution under its control relating to the fixed tuition rate program that shall include, at a minimum, the degree of flexibility a student has in changing majors or degree programs without voiding a fixed-rate contract.

(b) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1410, § 1, effective August 10, 2011.)

(c) Each state-supported institution of higher education under the direction and control of a governing board participating in the program shall publish information relating to the fixed-rate contract option in the institution's course catalog or student handbook and on the institutional web site.

(5) Repealed.

(6) A fixed-rate contract entered into pursuant to this section shall take into account the factors required to be specified in the five-year financial accountability plan, if any, submitted pursuant to section 23-5-130.5 by the state-supported institution of higher education offering the fixed-rate contract.

**Source: L. 2004:** Entire section added, p. 1338, § 1, effective July 1. **L. 2011:** (5) repealed, (SB 11-101), ch. 42, p. 111, § 1, effective March 21; (1)(b), (1)(c), (2), (4)(a), and (4)(b) amended and (6) added, (HB 11-1301), ch. 297, p. 1410, § 1, effective August 10.

**23-5-132. Governing boards - travel policies - exemption from state travel rules.** Each governing board shall adopt travel policies for the institutions of higher education under its control, including but not limited to the use of travel services or travel agencies by the employees of the governing board or said institutions. Any rules adopted by the state controller pursuant to section 24-30-202 (26), C.R.S., or by the executive director of the department of personnel pursuant to section 24-102-401, C.R.S., that impose restrictions or requirements pertaining to the use of travel services or travel agencies shall not apply to a governing board or state institution of higher education.

**Source: L. 2005:** Entire section added, p. 1017, § 12, effective June 2.

**23-5-133. Instructors - health benefits study - report.** (1) The Colorado commission on higher education shall conduct a study to determine the impact of providing health and dental benefits to persons who are employed by one or more state colleges, universities, or community colleges and who teach an aggregate of fifteen or more credit hours at one or more state colleges, universities, or community colleges in a consecutive twelve-month period. In the course of conducting the study, the commission shall determine but shall not be limited to determining the following:

(a) The number of persons who are employed by one or more state colleges, universities, or community colleges who teach an aggregate of fifteen or more credit hours in a consecutive twelve-month period and who are not eligible to enroll in a health insurance benefit plan and a dental insurance benefit plan provided through a state college, university, or community college;

(b) The number of persons specified in paragraph (a) of this subsection (1) who are teaching at each state college, university, or community college;

(c) The estimated annual cost of providing health insurance benefits and dental insurance benefits to the persons specified in paragraph (a) of this subsection (1), including but not limited to the cost of paying the employer's share of the premium for such benefits and any administrative costs; and

(d) Any other information deemed necessary by the Colorado commission on higher education in order to determine the impact of providing health insurance benefits and dental insurance benefits to the persons specified in paragraph (a) of this subsection (1).

(2) The Colorado commission on higher education shall work with each state college, university, and community college that employs one or more persons who teach an aggregate of fifteen or more credit hours at one or more state colleges, universities, or community colleges in order to collect the information required pursuant to this section.

(3) In connection with the study required pursuant to this section, each state college, university, and community college shall, when it next negotiates its health insurance and dental insurance benefit plans, evaluate the options for and costs of including persons who teach less than full time at the state college, university, or community college in such benefit plans. Each state college, university, and community college shall transmit its findings to the Colorado commission on higher education, and the commission shall include the finding in the report required pursuant to subsection (4) of this section.

(4) The Colorado commission on higher education shall submit a report to the members of the house and senate education committees, or any successor committees, detailing the results of the study conducted pursuant to this section and including the findings of each state college, university, and community college pursuant to subsection (3) of this section, no later than January 15, 2007.

**Source: L. 2006:** Entire section added, p. 846, § 1, effective May 4.

**23-5-134. Appointments to governing boards - considerations.** (1) It is the intent of the general assembly that the governor shall consider, when appointing individuals to serve on governing boards of institutions of higher education, an individual's:

- (a) Commitment to public education;
- (b) Record of public or community service;
- (c) Knowledge of complex organizations and academic institutions;
- (d) Demonstrated collaborative leadership;
- (e) Commitment to open-minded, nonpartisan decision-making; and
- (f) Record of integrity and civic virtue.

**Source: L. 2006:** Entire section added, p. 1235, § 10, effective May 26.

**Editor's note:** This section was originally numbered as 23-5-133 in Senate Bill 06-204 but has been renumbered on revision for ease of location.

**23-5-135. Governing boards - underserved students - report - repeal. (Repealed)**

**Source: L. 2006:** Entire section added, p. 1351, § 1, effective June 1.

**Editor's note:** (1) This section was originally numbered as 23-5-133 in House Bill 06-1024 but was renumbered on revision for ease of location.

(2) Subsection (2) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, p. 1351.)

**23-5-136. Governing boards - on-line textbook program.** Each governing board of a state institution of higher education shall consider creation and implementation of an on-line textbook library at the institution to allow students to purchase only those materials needed for the applicable course work. In considering the program, the governing board, at a minimum, shall take into account both the costs to the institution of higher education and the potential for reduced costs to students. Whether an institution of higher education creates an on-line textbook library shall be at the sole discretion of the institution's governing board.

**Source: L. 2006:** Entire section added, p. 1351, § 1, effective June 1.

**Editor's note:** This section was originally numbered as 23-5-134 in House Bill 06-1024 but has been renumbered on revision for ease of location.

**23-5-137. Loan repayment assistance - legislative declaration - definitions.** (1) This section shall be known and may be cited as the "Loan Repayment Assistance Act".



(2) (a) The general assembly hereby finds, determines, and declares that:

(I) It is of great value to the state to encourage students and graduates of institutions of higher education to enter public interest careers;

(II) With rising costs of education and the debt that many students incur to finance their education, there are increasing barriers to entering public interest employment because the pay is typically substantially lower than that of other employment sectors; and

(III) Inspired by a tradition of public interest, the university of Colorado law school developed a loan repayment assistance program to encourage and assist students and graduates to enter careers related to public interest and to help improve access to the justice system.

(b) The general assembly therefore declares that it is in the best interest of the state of Colorado to encourage and authorize institutions of higher education to create loan repayment assistance programs that provide for the partial or full repayment of the educational loans of students or graduates who enter public interest careers.

(3) As used in this section, unless the context otherwise requires:

(a) "Institution of higher education" means a postsecondary educational institution established and existing pursuant to law.

(b) "Program" means a loan assistance repayment program authorized pursuant to this article for students or graduates who enter public interest careers.

(4) (a) The governing board of each institution of higher education is hereby encouraged and authorized to establish a loan repayment assistance program to assist students or graduates from the institution who select careers in public interest. The governing board of each institution shall establish criteria and rules to govern the implementation and operation of the program at the institution. The program shall allow the governing board to provide a loan or a grant to a student or graduate of the institution in accordance with the criteria and rules set forth by the governing board pursuant to this section.

(b) Private contributions made for the benefit of a program and other available funds shall fund a program at an institution of higher education. An institution of higher education shall hold moneys to support a program in a fund account, and any unexpended or unencumbered moneys remaining in the account at the end of a fiscal year shall remain in the account and shall not revert or be transferred to another account or fund.

**Source: L. 2007:** Entire section added, p. 431, § 1, effective April 9.

**23-5-138. Textbooks - definitions - academic freedom.** (1) As used in this section, unless the context otherwise requires:

(a) "Adopting entity" means the person or persons responsible for selecting and ordering a textbook or supplemental learning material for use in a college course at a state institution of higher education.

(b) "Bundle" means one or more college textbooks or other supplemental learning materials offered in combination with one or more additional educational products to be sold as course materials for a single price.

(c) "College textbook" means a textbook or set of textbooks developed for use in a course in postsecondary education at a state institution of higher education. The term "college textbook" includes but need not be limited to custom textbooks and integrated textbooks.

(d) "Course material" means any textbook or other instructional tool that is published with the intent that it be used for or in conjunction with classroom instruction and that is adopted for academic use by faculty members, instructors, or the person or entity in charge of selecting learning material at the state institution of higher education.

(e) "Custom textbook" means a college textbook that is compiled at the direction of a faculty member, instructor, or other person or adopting entity in charge of selecting course materials at a state institution of higher education. A custom textbook may include but need not be limited to selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, or elements unique to a specific institution such as commemorative editions.

(f) “Integrated textbook” means a college textbook that is combined with materials and is designed solely for use as a combined unit, or that is developed by a third party and that, according to third-party contractual agreements, a publisher may not offer separately from the textbook with which the materials are combined.

(g) “Publisher” means a publisher of college textbooks or supplemental learning materials.

(h) “State institution of higher education” shall have the same meaning as provided in section 23-18-102 (10).

(i) “Substantial content” means a part of a college textbook, such as a new chapter, coverage of an additional historical era, a new theme, or new subject matter.

(j) “Supplemental learning material” means educational material developed to accompany a college textbook. Supplemental learning material is not a component of an integrated textbook. Supplemental learning material may include but need not be limited to printed materials, computer disks, web site access, and electronically distributed materials.

(2) Beginning on or before July 1, 2009:

(a) When a publisher provides a faculty member, instructor, or other person or adopting entity in charge of selecting course materials at a state institution of higher education with information regarding a college textbook or supplemental learning material, the publisher shall provide, in writing or electronically, the following information, at a minimum:

(I) The price at which the publisher would make the textbook or supplemental learning material available;

(II) The substantial content revisions made, if any, between the current edition of the college textbook or supplemental learning material and a previous edition;

(III) Whether the college textbook or supplemental learning material is available in another format, including but not limited to paperback or unbound copies, and the price at which the publisher would make the college textbook or supplemental learning material in the other format available.

(b) A publisher that sells a college textbook and any supplemental learning material accompanying that college textbook as a single bundle to a state institution of higher education shall also make available the college textbook and any of the supplemental learning materials as separate and unbundled items at separate prices.

(c) To the maximum extent practicable, a publisher shall provide the information required in this subsection (2) for the development and provision of custom textbooks.

(3) Nothing in this section shall be construed as superseding the institutional autonomy or academic freedom of a state institution of higher education or its faculty members or instructors in the selection of college textbooks and supplemental learning materials.

**Source: L. 2008:** Entire section added, p. 335, § 2, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 108, Session Laws of Colorado 2008.

**23-5-139. Higher education revenue bond intercept program.** (1) (a) The state treasurer, on behalf of a state-supported institution of higher education, as described in section 23-1-102 (2) and referred to in this section as an “institution”, shall make payment as provided in this section of principal and interest on bonds to which this section applies unless the governing board of the institution adopts a resolution stating that it will not accept on behalf of the institution payment of principal of and interest on bonds as provided in this section. Any such resolution shall be adopted prior to issuance or incurrence of the bonds to which it applies. Following adoption of the resolution, the institution shall provide written notice to the state treasurer of its refusal to accept the payment. The refusal to accept payment shall take effect upon the date the state treasurer receives the written notice and shall continue in effect until the date the state treasurer receives written notice from the institution that the governing board of the institution has adopted a resolution rescinding the refusal to accept payment pursuant to this section. Notwithstanding any provision of subsections (2) to (7) of this section to the contrary, the state treasurer shall not make payment of principal of or interest on bonds on behalf of an institution that provides written



notice of its refusal to accept payment by the state treasurer on its behalf as provided in this paragraph (a) until the state treasurer receives written notice of the rescission of refusal to accept payment.

(b) This section applies to revenue bonds issued by an institution pursuant to this article on or after June 4, 2008, and to refunding bonds issued by an institution pursuant to article 54, 56, or 57 of title 11, C.R.S., on or after June 4, 2008, if, on the date the bonds are issued:

(I) The maximum total annual debt service payments of the revenue bond issue and any other bonds to which this section applies issued by the same institution are one hundred percent or less of the institution's prior year fee-for-service contract revenue; and

(II) The pledged revenues for the issue include not less than:

(A) The net revenues of auxiliaries;

(B) Ten percent of tuition if the institution is an enterprise, as defined in section 24-77-102 (3), C.R.S.;

(C) Indirect cost recovery revenues, if any;

(D) Facility construction fees designated for bond repayment, if any; and

(E) Student fees and ancillary revenues currently pledged to existing bondholders.

(2) Whenever the paying agent has not received payment of principal of or interest on bonds or other obligations to which this section applies on the business day immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the institution by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the institution and determine whether the institution will make the payment by the date on which it is due.

(3) If an institution indicates that it will not make a payment by the date on which it is due, or if the state treasurer is unable to contact the institution, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the bonds or other obligations of the institution to the paying agent. The state treasurer shall recover the amount forwarded by withholding amounts from the institution's payments of the state's fee-for-service contract with the institution, from any other state support for the institution, and from any unpledged tuition moneys collected by the institution. The total amount withheld in a month from the state's fee-for-service contract with the institution for each occasion on which the state treasurer forwards an amount pursuant to this section shall not exceed one-twelfth of the amount forwarded. The state treasurer shall not withhold for more than twelve consecutive months for each occasion on which the treasurer forwards amounts pursuant to this section. Notwithstanding any other provision of this subsection (3), an institution may elect to make early repayment of all or any portion of an amount forwarded by the state treasurer on behalf of the institution pursuant to this section.

(4) The amounts forwarded to the paying agent by the state treasurer pursuant to subsection (3) of this section shall be applied by the paying agent solely to the payment of the principal of or interest on such bonds or other obligations of the institution. The state treasurer shall notify the department of higher education and the general assembly of amounts withheld and payments made pursuant to this section. Institutions that have a debt service payment forwarded to the paying agent by the state treasurer shall not request a supplemental general fund appropriation or budget amendment for the amount forwarded in order to replace withheld fee-for-service revenue.

(5) Any institution with a bond issue for which this section applies shall file with the state treasurer a copy of the resolution that authorizes the issuance of bonds; a copy of the official statement or other offering document for the bonds; the agreement, if any, with the paying agent for the bonds; and the name, address, and telephone number of the paying agent. The failure of any institution to file such information shall not affect the obligation of the state treasurer to withhold the state's fee-for-service contract payments to the institution.

(6) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of bonds issued by institutions that it will not repeal, revoke, or rescind the provisions of this section or modify or amend this section so as to limit or impair the rights and remedies granted by this section; except that nothing in

this subsection (6) shall be deemed or construed to require the state to continue the payment of state assistance to any institution or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to institutions or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds within the meaning of any state constitutional provision or to create any other liability except to the extent provided in this section.

(7) Whenever the state treasurer is required by this section to make a payment of principal of or interest on bonds or other obligations on behalf of an institution, the department of higher education shall initiate an audit of the institution to determine the reason for the nonpayment and to assist the institution, if necessary, in developing and implementing measures to ensure that future payments will be made when they are due.

**Source: L. 2008:** Entire section added, p. 2160, § 1, effective June 4.

**23-5-140. Lifesaving school safety information.** (1) (a) The general assembly hereby finds and declares that:

(I) The safety of students, faculty, and staff who work and learn on the campuses of Colorado institutions of higher education can be enhanced by informing, organizing, and empowering those individuals to respond appropriately to emergency situations on campus;

(II) Critical incidents that take place on campuses are unique, life-changing events that require exercising basic survival skills during an intense period of high mental and physical stress. Having the information necessary to respond effectively to these critical incidents can be key to a positive individual or group outcome in a true life or death situation; and

(III) Colorado institutions of higher education should ensure that all students, faculty, and staff receive updated school safety information that reflects best practices for their institution at the beginning of each school year.

(b) The general assembly therefore finds that the dissemination of safety information to students, faculty, and staff that reflects best practices for the institution may encourage students, faculty, and staff to respond appropriately and in coordination with school safety personnel in emergency situations.

(2) As used in this section, unless the context otherwise requires:

(a) “Institution of higher education” or “institution” means a state institution of higher education as defined in section 23-18-102 (10) (a), a junior college, an area vocational school, or a technical college.

(b) “School building” means a building, including but not limited to a classroom building or a school dormitory, that is a public building of an institution of higher education.

(3) (a) Each institution of higher education shall develop policies and procedures that are tailored to the institution and that reflect best practices concerning critical incident response protocols and personal safety on campus and in school buildings on campus.

(b) Beginning in the 2011-12 academic year, each institution shall disseminate annually school safety information to students, faculty, and staff concerning the policies and procedures developed pursuant to paragraph (a) of this subsection (3).

**Source: L. 2010:** Entire section added, (HB 10-1054), ch. 117, p. 394, § 1, effective August 11.

**23-5-141. Campus police information sharing - legislative declaration - definitions.** (1) The general assembly finds and declares that:

(a) Providing for the safety of the students, faculty, and staff of Colorado’s state institutions of higher education is an important priority for those institutions and for the state;

(b) Unfortunate and tragic events at educational institutions within the state and around the nation have raised concerns regarding campus safety at Colorado’s institutions of higher education; and



(c) State institution of higher education police departments should be authorized to share with responsible administrators information regarding behaviors which pose a potential risk to the campus community in order to mitigate such risk.

(2) For purposes of this section:

(a) “Campus behavioral intervention task force” means any group of persons that includes at least one administrator listed in subparagraph (I) of paragraph (a) of subsection (3) of this section and is appointed by the chief executive officer of a state institution of higher education, or his or her designee, to monitor and mitigate risks to campus safety posed by individuals who display concerning behaviors.

(b) “Sexual assault” means any of the offenses listed in section 24-72-304 (4) (b) (I), C.R.S.

(c) “State institution of higher education” means a state institution of higher education as defined in section 23-18-102 (10) (a), a junior college, an area vocational school, the Auraria higher education center, an education center, or a technical college.

(3) (a) Except as provided in paragraph (b) of this subsection (3), a state institution of higher education police department may provide unredacted information, which information may include but need not be limited to police reports, regarding any incident within its jurisdiction to:

(I) The director, or director’s designee, of any campus program or unit with administrative responsibility for victims assistance, mental health services, university housing, student discipline processes, or student affairs; and

(II) A campus behavioral intervention task force.

(b) When providing information regarding a sexual assault or attempted sexual assault pursuant to paragraph (a) of this subsection (3), a state institution of higher education police department shall redact the victim’s name and identifying information unless the victim agrees otherwise in writing with respect to each administrator or behavioral intervention task force to which the police department intends to release the information.

(c) A state institution of higher education police department may provide to a person who is the focus of a specific threat of physical violence information regarding any incident within its jurisdiction that is necessary to protect the person who is the focus of the threat.

(d) Notwithstanding the provisions of section 24-72-304 (4), 27-65-121, or 27-81-113, C.R.S., to the contrary, the authorization to share information established by this section specifically includes but is not limited to information regarding sexual assaults, emergency mental health holds, and protective custody for alcohol or drug detoxification. Any person receiving information regarding sexual assaults, emergency mental health holds, and protective custody for alcohol or drug detoxification pursuant to this section shall make all reasonable efforts to ensure the information is not disseminated beyond what is necessary.

(4) A faculty member, staff member, or student of the campus disclosing information to a campus behavioral intervention task force while acting under a good-faith belief that the disclosure is necessary to protect the health, safety, or well-being of any person, or to protect the property of any person or of the institution, shall not be liable in any civil action for disclosing the information. The immunity provided in this section does not nullify or rescind any statutory duty of confidentiality by a licensed professional or victim’s advocate pursuant to section 13-90-107 (1) (k), C.R.S., or any statutory duty to warn and protect specified in section 13-21-117, C.R.S.

**Source: L. 2011:** Entire section added, (HB 11-1169), ch. 119, p. 372, § 1, effective April 20.

ARTICLE 6

Higher Education Emeritus  
Retirement Benefits

23-6-101.	Persons eligible for benefits.	23-6-103.	Benefits commence - when.
23-6-102.	Application.	23-6-104.	Fund - limitation on pension.

**23-6-101. Persons eligible for benefits.** (1) This article shall apply to all presidents, deans, professors, administrators, instructors, and research workers, referred to in this article as "faculty members", retired from service of state institutions of higher education in Colorado, to their dependent surviving spouses, and to the surviving spouses of said faculty members who have died in service after ten or more years of employment in said state institutions.

(2) Any faculty members applying for benefits under this article:

(a) Shall have served as such faculty member at least fifteen years in one or more state institutions of higher education in Colorado, shall be at least sixty-five years of age, and shall have retired prior to July 1, 1962;

(b) Shall have retired at any age and at any time, at the initiative of the Colorado institution where last serving, for disability regarded as rendering such faculty member unfit for further service if such faculty member has served at least fifteen years and the president of the institution so retiring such member certifies to the commissioner of education as to the disability of such member;

(c) Shall, prior to July 1, 1962, have attained the age of sixty years and shall, upon the date of his retirement, have served at least twenty years; or

(d) Shall, prior to July 1, 1962, have attained the age of sixty years and shall, upon the date of his retirement, have served at least ten but less than twenty years.

(3) Any surviving spouse of any deceased faculty member applying for benefits under this article:

(a) Shall have been married to said faculty member on the date on which eligibility of said member for retirement benefits under this article was established under the provisions of paragraphs (a) to (c) of subsection (2) of this section;

(b) Shall have been married to said faculty member on the date on which eligibility of said member for retirement benefits under this article was established under the provisions of paragraph (d) of subsection (2) of this section;

(c) Shall have been married to said faculty member who died in service after twenty years of employment in state institutions of higher education in Colorado;

(d) Shall have been married to said faculty member who died in service after ten or more years of employment in state institutions of higher education in Colorado;

(e) May be of any age.

**Source:** L. 54: p. 160, § 1. CRS 53: § 124-17-1. L. 57: p. 717, § 1. C.R.S. 1963: § 124-16-1. L. 67: p. 727, § 1.

**23-6-102. Application.** Any faculty member or surviving spouse of such faculty member eligible under section 23-6-101 who is not receiving a pension or annuity under a retirement system supported in whole or in part from the state or its political subdivisions which is in excess of the retirement benefits provided for by this article shall make application to the commissioner of education for retirement benefits.

**Source:** L. 54: p. 160, § 2. CRS 53: § 124-17-2. L. 57: p. 718, § 1. C.R.S. 1963: § 124-16-2. L. 67: p. 728, § 1.

**23-6-103. Benefits commence - when.** All faculty members or their surviving spouses who are declared eligible by the commissioner of education to receive the retirement benefits provided by this article shall receive a monthly benefit provided in this article effective the first month after the commissioner declares the faculty member or surviving spouse so eligible. All faculty members or their surviving spouses receiving retirement benefits under this article before June 8, 1967, shall receive the increased benefits provided in this article effective on or after the first month following said date without being required further to establish eligibility to receive such retirement benefits.

**Source:** L. 54: p. 161, § 3. CRS 53: § 124-17-3. L. 57: p. 718, § 1. C.R.S. 1963: § 124-16-3. L. 67: p. 728, § 1.



**23-6-104. Fund - limitation on pension.** (1) There is hereby created a state institutions of higher education emeritus retirement fund from which the commissioner of education shall authorize payments from such appropriations as are made to the fund, as follows:

(a) (I) To any faculty member eligible under section 23-6-101 (2) (a), (2) (b), or (2) (c), a monthly payment of two hundred forty dollars or a lesser sum which, together with any pension or retirement benefit or annuity which at the time of his retirement he was eligible to receive from any other retirement or annuity pension fund supported in whole or in part by the state of Colorado or its political subdivisions, provides a total retirement income of three hundred fifty dollars per month; and, effective July 1, 1975, and each year thereafter, said amount shall be increased by three percent.

(II) For the fiscal year commencing July 1, 1980, payments and amounts provided for in subparagraph (I) of this paragraph (a) shall be increased by eight percent or the average percentage increase in the state salary survey for 1980-81, whichever is higher. Effective July 1, 1981, and each fiscal year thereafter, the percentage increase shall be commensurate with the average state salary survey percentage increase.

(b) To any faculty member eligible under section 23-6-101 (2) (d), a monthly payment determined as specified in paragraph (a) of this subsection (1) after multiplying each dollar sum specified therein by that fraction given by multiplying years of service by one-twentieth;

(c) To any surviving spouse eligible under section 23-6-101 (3) (a) or (3) (c), a monthly payment of one hundred twenty-five dollars or a lesser sum which, together with any pension or annuity or retirement benefit received from any other retirement or annuity pension fund supported in whole or in part by the state of Colorado or its political subdivisions, provides a total retirement benefit of one hundred seventy-five dollars per month;

(d) To any surviving spouse eligible under section 23-6-101 (3) (b) or (3) (d), a monthly payment determined as specified in paragraph (c) of this subsection (1) after multiplying each dollar sum specified therein by that fraction determined by multiplying years of faculty member's service by one-twentieth.

(2) If at any time there are insufficient moneys in the state institutions of higher education emeritus retirement fund to pay the full amount of the retirement benefits provided by this article, said moneys shall be distributed as follows:

(a) Each eligible faculty member shall receive that payment which, together with all other retirement benefits supported in whole or in part by the state of Colorado or its political subdivisions, provides a retirement income of two hundred dollars per month, or the surviving spouse shall receive one hundred dollars per month.

(b) From the moneys remaining after the above specified allotments are made, each faculty member shall receive that additional payment which, together with all other retirement benefits supported in whole or in part by the state of Colorado or its political subdivisions, provides a retirement income of two hundred fifty dollars per month, or the surviving spouse shall receive one hundred twenty-five dollars per month.

(c) All moneys remaining after the above specified allotments are fulfilled shall be prorated among all eligible recipients to provide, within the limits of the moneys available, those additional benefits for which each is eligible under subsection (1) (a) to (1) (d) of this section.

**Source:** L. 54: p. 161, § 4. CRS 53: § 124-17-4. L. 57: p. 719, § 1. C.R.S. 1963: § 124-16-4. L. 67: p. 728, § 1. L. 74: (1)(a) amended, p. 361, § 2, effective July 1. L. 80: (1)(a) amended, p. 568, § 2, effective July 1. L. 2004: IP(2) amended, p. 202, § 19, effective August 4.

**Cross references:** For provisions relating to the state salary survey, see § 24-50-104.

ARTICLE 7

Classification of Students for  
Tuition Purposes

**Cross references:** For the authority to charge a tuition fee for out-of-state students at the university of Colorado, see § 23-20-132; for tuition at the dental school at the university of Colorado, see § 23-20.5-101; for tuition at Colorado state university, see § 23-31-107; for tuition at the Colorado school of mines, see § 23-41-107; for tuition at Fort Lewis college, see § 23-52-105; for tuition at community and technical colleges, see § 23-60-202.

23-7-101.	Legislative declaration.	23-7-108.5.	Tuition classification of armed forces veterans.
23-7-102.	Definitions.	23-7-108.7.	Tuition classification of dependents of members of the armed forces.
23-7-103.	Presumptions and rules for determination of status.	23-7-109.	Tuition classification for employees or employees' children of companies who move to Colorado.
23-7-104.	Commission to recommend enrollment incentive program.	23-7-110.	Tuition classification for United States citizens who attend and graduate from Colorado high schools or complete a Colorado general equivalency diploma.
23-7-105.	Tuition classification of olympic athletes.	23-7-111.	Tuition classification for persons who move to Colorado for employment.
23-7-106.	Tuition classification of Canadian military personnel.		
23-7-107.	Tuition classification of Chinese and Russian students in graduate public policy programs.		
23-7-108.	Tuition classification of Colorado National Guard personnel.		

**23-7-101. Legislative declaration.** It is the intent of the general assembly that the state institutions of higher education shall apply uniform rules, as prescribed in this article and not otherwise, in determining whether students are classified as in-state students or out-of-state students for tuition purposes.

**Source:** L. 61: p. 718, § 1. CRS 53: § 124-19-1. C.R.S. 1963: § 124-18-1.

ANNOTATION

**Classification of students as out-of-state and consequent imposition of higher tuition is not unconstitutional.** It is not unconstitutional to classify students applying for admission to a university as in-state or out-of-state students, and to impose a higher tuition for the out-of-state students. *Landwehr v. Regents of Univ. of Colo.*, 156 Colo. 1, 396 P.2d 451 (1964).  
**Applied** in *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

- 23-7-102. Definitions.** As used in this article, unless the context otherwise requires:
- (1) Repealed.
  - (2) “Domicile” means a person’s true, fixed, and permanent home and place of habitation. It is the place where he intends to remain and to which he expects to return when he leaves without intending to establish a new domicile elsewhere.
  - (3) “Emancipated minor” means a minor whose parents have entirely surrendered the right to the care, custody, and earnings of such minor, no longer are under any duty to support or maintain such minor, and have made no provision for the support of such minor.
  - (4) “His” applies to the female as well as the male sex.
  - (5) “In-state student” means a student who has been domiciled in Colorado for one year or more immediately preceding registration at any institution of higher education in Colorado for any term or session for which domiciliary classification is claimed, but attendance at an institution of higher education, public or private, within the state of Colorado shall not alone be sufficient to qualify for domicile in Colorado. “In-state



student" includes a member of the armed forces of the United States or his dependents who qualify under section 23-7-103 (1) (c).

(6) "Institution" means a Colorado college, university, or junior college supported partially or entirely by appropriations made by the general assembly.

(7) "Minor" means a male or female person who has not attained the age of twenty-two years.

(8) "Parent-qualified student" means an unemancipated minor who is not domiciled in Colorado but who has a parent domiciled in Colorado.

(9) "Qualified person" means a person qualified to determine his or her own domicile. A person over the age of twenty-two years or a student commencing a postbaccalaureate degree-granting program or an emancipated minor is so qualified.

**Source:** L. 61: p. 718, § 2. CRS 53: § 124-19-2. C.R.S. 1963: § 124-18-2. L. 67: p. 822, § 1. L. 84: (1) repealed and (3), (8), and (9) amended, pp. 633, 631, §§ 3, 1, effective April 5. L. 86, 2nd Ex. Sess.: (5) amended, p. 59, § 1, effective August 15. L. 93: (9) amended, p. 1865, § 2, effective July 1. L. 96: (7) and (9) amended, p. 732, § 1, effective May 22.

**Cross references:** For the legislative declaration contained in the 1993 act amending this section, see section 1 of chapter 311, Session Laws of Colorado 1993.

#### ANNOTATION

**Fundamental to the classification of "in-state student" is the establishment of a domicile** as it is expressly defined in subsection (2). *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

**Intent as to domicile is to be determined by trier of fact, absent legal disability.** In the absence of a legal disability preventing a student admitted to the United States as an alien from forming the requisite intent to establish a domicile after the expiration of his student visa, it is within the province of the trier of fact to determine whether the intent required by this section was present. *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

**Although the federal statutes create a disability during the period** that a student is a nonimmigrant alien, no state or federal statute compels the conclusion that this impediment remains until he is granted the status of lawful permanent resident. *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

**The legal disability created by federal statute can, as a matter of fact and law, dissolve** upon the expiration of an alien student's visa, and at such time he can abandon his legal intent to return to his homeland and seek status as a permanent resident of the United States. *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

**Where there was evidence to the effect that an alien student intended to reside permanently in Colorado**, and where he did in fact reside in Colorado, the trial court did not err in finding that he met the requirements for the establishment of a "domicile" as expressly defined by subsection (2); and where the trial court additionally found that plaintiff had been domiciled in Colorado for more than one year prior to his application for resident tuition status, its conclusion that the student was entitled to classification as an "in-state student" for tuition purposes under subsection (5) was also proper. *Seren v. Douglas*, 30 Colo. App. 110, 489 P.2d 601 (1971).

**23-7-103. Presumptions and rules for determination of status.** (1) Unless the contrary appears to the satisfaction of the registering authority of the institution at which a student is registering, it shall be presumed that:

(a) The domicile of an unemancipated minor is that of the parent with whom he or she resides or, if there is a guardian of his or her person, that of such guardian, but only if the court appointing such guardian (who has legal custody of the minor child as defined in section 19-1-103 (73), C.R.S.) certifies that the primary purpose of such appointment is not to qualify such unemancipated minor as a resident of this state and that his or her parents, if living, do not provide substantial support to the minor child;

(b) Repealed.

(c) (I) (A) A person does not lose in-state status by reason of his or her presence in any state or country while a member of the armed forces of the United States or a dependent of

said member; but a member of the armed forces or a dependent of said member is eligible for in-state status if the member is domiciled in Colorado for twelve continuous months prior to enlistment and returns to Colorado within six months following discharge from the military.

(B) A member of the armed forces shall be eligible to obtain in-state status, notwithstanding the length of his or her residency, upon moving to Colorado on a permanent change-of-station basis or on a temporary assignment to duty in Colorado.

(C) A member of the armed forces may apply for in-state tuition classification for any of his or her dependents, including but not limited to a spouse, upon meeting the requirements of this section. After qualifying as an in-state student and while continuously enrolled as an undergraduate or graduate student at an institution of higher education in Colorado, a member of the armed forces of the United States on active duty, or the member's spouse or dependent, shall not lose his or her eligibility for in-state tuition status if the member is transferred outside of Colorado or if the member retires or separates from the military and remains in Colorado. A person who is a dependent of a member of the armed forces of the United States who was on active duty in Colorado during the person's last year of high school, and who attends a public institution of higher education in Colorado within twelve months after graduating from a high school in Colorado, shall be eligible for in-state tuition, and the eligibility shall not be affected if the member is transferred outside of Colorado or if the member retires or separates from the military and remains in Colorado; except that such a person is not eligible for in-state tuition under this provision if the person has attended an institution of higher education outside of Colorado.

(II) Notwithstanding any provision of section 23-18-102 (5) to the contrary, a member of the armed forces or his or her dependent who obtains in-state status upon moving to Colorado on a temporary assignment to duty in Colorado shall not be eligible to receive a stipend pursuant to part 2 of article 18 of this title unless said member or dependent is eligible to obtain in-state status under another provision of this section.

(III) Repealed.

(d) The establishment of a new domicile in Colorado by a qualified person formerly domiciled in another state has occurred if he is physically present in Colorado without a present intention to return to such other state or to acquire a domicile at some other place outside of Colorado;

(e) Once established, a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile;

(f) The establishment of a Colorado domicile for twelve continuous months in accordance with the provisions of this article by the parent of a parent-qualified student entitles the student to in-state tuition rates;

(g) A minor is unemancipated.

(2) To aid the institutions in deciding whether a student, a parent or guardian of the student, or the person who provides substantial support to the student is domiciled in Colorado, the following rules shall be applied:

(a) Payment of Colorado income tax is highly persuasive evidence of domicile in Colorado. If spouses file income tax returns in different states, the income tax paid to each state may be considered in determining whether domicile in Colorado is proper.

(b) Nonpayment of Colorado income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Colorado domicile.

(c) After a student has registered at an institution, his classification for tuition purposes remains unchanged in the absence of clear and convincing evidence to the contrary. Such evidence shall be reduced to writing and filed with the registering authority of the college. Changes in classification established by such evidence, whether from out-of-state to in-state or the reverse, shall be in writing, signed by the registering authority of the college, and given effect at the time of the student's next registration.

(d) A qualified person cannot establish a new domicile in Colorado if he lacks the intention of so doing.

(e) No person may establish a domicile in Colorado solely for the purpose of changing a student's classification for tuition purposes from out-of-state to in-state. Any student who is classified for tuition purposes as an out-of-state student at the time of registration at an



institution and who personally or through his parent, his guardian, or the person who provides substantial support to him seeks to establish Colorado domicile while registered shall be presumed to seek to establish Colorado domicile solely for tuition purposes in the absence of clear and convincing evidence to the contrary.

(f) The following may be considered evidence of domicile even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile:

(I) Employment in Colorado, other than that normally provided on a temporary basis to students by an institution of higher education or other temporary employment;

(II) Ownership of residential real property in Colorado;

(III) Graduation from a high school located in Colorado;

(IV) Continued residence in the state of Colorado during periods when not enrolled as a student or during periods between academic sessions;

(V) Acceptance of future employment in the state of Colorado;

(VI) Vehicle registration in Colorado;

(VII) Any other factor peculiar to the individual which tends to establish the necessary intent to make Colorado a permanent home;

(VIII) Voter registration in Colorado.

(g) The following may be considered as evidence of domicile in another state even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile in another state:

(I) Failure to comply with any law imposing a mandatory duty upon a domiciliary or resident of this state;

(II) Maintenance of a home in another state;

(III) Prolonged absence from Colorado, except in military or governmental service or except when the absence is due to a temporary relocation required as a condition of employment which the employer does not intend to make permanent or except when the student has been out of state for less than three years and such student's parent or legal guardian was and continues to be a resident of Colorado;

(IV) Return to one's former residence for a substantial portion of the time during periods when not enrolled as a student or between academic sessions;

(V) Vehicle registration in another state;

(VI) Any other factor peculiar to the individual which tends to establish the fact that his permanent home is in another state.

(h) The following may be considered as evidence of emancipation for the purposes of this article even though no one of these criteria, if taken alone, may be considered as conclusive evidence of emancipation:

(I) An affidavit of the parents stating their relinquishment of any claim or right to the care, custody, and earnings of the minor as well as the duty to support the minor;

(II) Entry into the military service by the minor;

(III) Failure of the parents to provide financial support to the minor, coupled with the evidence that the minor is independently able to meet his own financial obligations, including the costs of his education;

(IV) Any other factor peculiar to the individual which tends to establish that he is independent of his parents and is providing his own support.

(i) The following may be considered as evidence of nonemancipation for the purpose of this article even though no one of these criteria, if taken alone, may be considered as conclusive evidence of nonemancipation:

(I) The claiming of a minor as a dependent for the purposes of income taxation;

(II) Receipt of gifts, loans, or trust proceeds from an inter vivos trust by a minor regardless of the date of receipt thereof which the minor depends upon for financial support, whether the gifts, loans, or trusts from which proceeds are paid are made by the parents, any other relative, or a friend of the minor;

(III) Residence in the home of his parents by the minor, except for temporary visits;

(IV) Any other factor peculiar to the individual which tends to establish that he lacks independence and is dependent upon his parents.

(j) The marriage of a minor results in his emancipation.

(k) The establishment of a Colorado domicile shall be the burden of the person seeking to establish domicile. The registering authority of any state institution of higher education shall require the individual seeking to establish domicile to support his claim by clear and convincing evidence of the validity of the claim. The registering authority may require the individual seeking to establish domicile to complete forms prepared by the Colorado commission on higher education for the purpose of aiding him in his determination and to provide such documentation as may be required to support the classification.

(l) Only a qualified person can establish a domicile.

(m) (I) Any person who himself or, if an unemancipated minor, through his parent or legal guardian has had an established domicile in this state for not less than one year shall not be considered to have lost such domicile for tuition purposes unless such person would be classified as an in-state student for tuition purposes in another state if the rules and presumptions in this section for classification as an in-state student were applied in such other state to such person.

(II) Any unemancipated minor whose parent or legal guardian was domiciled in Colorado for at least the four immediately preceding years and whose parent or legal guardian moves from this state shall be classified as an in-state student if:

(A) The parent or legal guardian leaves the state after the minor completes his or her junior year of high school and the minor matriculates at a Colorado institution within three years and six months after the time the parent or legal guardian leaves the state; or

(B) Notwithstanding his or her unemancipated status, the minor maintains continuous Colorado domicile subject to all other provisions of this section.

(n) Participation in an education expense program shall not be considered evidence of domicile in this state or in another state.

(o) A foreign national, notwithstanding an intention to return to his or her country of origin or ineligibility to establish domicile in the United States pursuant to federal law, shall be eligible for classification as an in-state student subject to all other provisions of this section if the primary purpose of the foreign national's residence in Colorado, pursuant to federal immigration regulations, is other than for his or her education or for the education of a family member. The Colorado commission on higher education shall designate those nonimmigrant classifications under which such foreign nationals may qualify as in-state students. In no event shall said designation displace students who would otherwise qualify as Colorado residents for in-state tuition classification purposes.

(2.5) Repealed.

(3) An unemancipated minor qualifies for a change in his or her classification to in-state student for tuition purposes only if either of his or her parents, regardless of custody or parental responsibilities, or his or her legal guardian has completed the requirements for establishing a Colorado domicile. Eligibility for classification as an in-state student for tuition purposes shall be lost if both of his parents, regardless of custody or parental responsibilities, or his or her legal guardian has lost eligibility. An emancipated minor or adult who has registered as a student does not qualify for a change in his or her classification to in-state student for tuition purposes unless he or she has established and maintained a domicile for twelve continuous months in this state.

(4) Repealed.

(5) The presumptions and rules in this section shall determine tuition classification except when exceptions are made by the general assembly in other sections of this article.

**Source:** L. 61: p. 719, § 3. CRS 53: § 124-19-3. C.R.S. 1963: § 124-18-3. L. 65: p. 1040, § 1. L. 67: p. 822, § 2. L. 69: p. 1069, § 1. L. 73: pp. 1331-1333, §§ 1, 2, 3. L. 77: (1)(a) amended, p. 1379, § 1, effective July 1. L. 79: (3) amended and (4) added, p. 833, § 1, effective June 7. L. 84: (1)(b) and (4) repealed, (1)(c), (1)(f), IP(2), (2)(h)(II), and (3) amended, and (2)(k) and (2)(l) added, pp. 633, 631, §§ 3, 2, effective April 5. L. 85: (2) R&RE, p. 780, § 1, effective May 24. L. 86, 2nd Ex. Sess.: (1)(c) amended, p. 59, § 2, effective August 15. L. 87: (1)(a) amended, p. 819, § 30, effective October 1. L. 90: (2.5) added, p. 1142, § 8, effective July 1. L. 93: (2)(a), (2)(g)(III), and (2)(i)(II) amended and (5) added, p. 1866, § 3, effective July 1. L. 96: (2)(n) added, p. 430, § 12, effective April 22; (2)(m)(II) amended and (2)(o) added, p. 732, § 2, effective May 22; (2.5)



repealed, p. 1836, § 16, effective June 5. **L. 98:** (1)(a) amended, p. 831, § 58, effective August 5; (3) amended, p. 1411, § 76, effective February 1, 1999. **L. 99:** (1)(c)(III) repealed, p. 850, § 7, effective May 24. **L. 2003:** (5) amended, p. 1994, § 39, effective May 22. **L. 2004:** (1)(c)(I) amended, p. 1153, § 1, effective May 27. **L. 2005:** (1)(c)(I) amended, p. 656, § 1, effective May 27. **L. 2006:** (1)(c)(I) amended, p. 154, § 1, effective March 31; (1)(c)(I) amended, p. 1777, § 1, effective June 6. **L. 2007:** (1)(c) amended, p. 1620, § 1, effective July 1. **L. 2009:** (1)(c)(I)(C) amended, (HB 09-1039), ch. 382, p. 2075, § 2, effective August 5.

**Editor's note:** Amendments to subsection (1)(c)(I) by Senate Bill 06-031 and Senate Bill 06-032 were harmonized.

**Cross references:** (1) For the legislative declaration contained in the act amending subsection (2)(a), (2)(g)(III), and (2)(i)(II) and enacting subsection (5), see section 1 of chapter 311, Session Laws of Colorado 1993.

(2) For the short title of the act amending subsection (1)(c)(I)(C), see section 1 of chapter 382, Session Laws of Colorado 2009.

### ANNOTATION

**Former sentence in subsection (3) which began with the words, "An emancipated minor or adult student..." was unconstitutional** as imposing an invidious discrimination, but was severable from the remainder of the statute which was legally complete within itself. *Covell v. Douglas*, 179 Colo. 443, 501 P.2d 1047 (1972), cert. denied, 412 U.S. 952, 93 S. Ct. 3000, 37 L. Ed.2d 1006 (1973) (decided prior to 1979 amendment).

**Because it created an irrebuttable presumption of nonresidency which constituted invidious discrimination.** Since, under that provision, all full-time students, not residents of Colorado before they attend school herein, were

prohibited from ever controverting the presumption of nonresidency for tuition purposes while they remain full-time students, such provision imposed an invidious discrimination violative of due process and was unconstitutional. *Covell v. Douglas*, 179 Colo. 443, 501 P.2d 1047 (1972), cert. denied, 412 U.S. 952, 93 S. Ct. 3000, 37 L. Ed.2d 1006 (1973) (decided prior to 1979 amendment).

**Remainder of unconstitutional sentence in that provision held not severable.** See *Covell v. Douglas*, 179 Colo. 443, 501 P.2d 1047 (1972), cert. denied, 412 U.S. 952, 93 S. Ct. 3000, 37 L. Ed.2d 1006 (1973) (decided prior to 1979 amendment).

**23-7-104. Commission to recommend enrollment incentive program.** The Colorado commission on higher education shall propose an enrollment incentive program for summer sessions at state-supported colleges and universities and make recommendations for the legislative implementation thereof to the education committees of the general assembly on or before January 15, 1979. Such recommendations shall be accompanied by an analysis of the fiscal impact of differentiated tuition levels, projections of the extent of the effect that summer school tuition rates have on overall enrollment, and a summary of the experiences any other states may have had in implementing a similar program.

**Source:** **L. 78:** Entire section added, p. 382, § 1, effective April 27.

**23-7-105. Tuition classification of olympic athletes.** (1) Notwithstanding any other provision of this article to the contrary, but subject to subsections (2) and (3) of this section, every athlete who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the athlete is:

(a) In residence and in training at the United States olympic training center at Colorado Springs;

(b) In residence in Colorado Springs and in training at the olympic training center at Colorado Springs in a program approved by the governing body for the athlete's olympic sport; or

(c) In residence in Colorado Springs and in training at a facility in Colorado Springs approved by the governing body for the athlete's olympic sport and in a program approved by such body.

(2) If a student is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that no such student shall be entitled to receive state financial aid.

(3) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

**Source:** L. 86: Entire section added, p. 827, § 1, effective May 26. L. 88: (1) amended, p. 841, § 1, effective May 29. L. 89: IP(1) amended, p. 980, § 1, effective April 5; (3) amended, p. 1643, § 6, effective June 5. L. 93: Entire section RC&RE, p. 1262, § 1, effective June 6. L. 96: IP(1) and (2) amended, p. 1006, § 1, effective July 1.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1992. (See L. 86, p. 827.)

**23-7-106. Tuition classification of Canadian military personnel.** (1) Notwithstanding any other provisions of this article to the contrary, any member of the military forces of Canada stationed in Colorado, or the dependent of any such member, shall receive in-state tuition status at any institution of higher education in this state. No member of the Canadian military shall be deemed to be stationed in this state unless he maintains a full-time principal residence in this state. In-state tuition status for Canadian military personnel or their dependents shall terminate at the conclusion of the current quarter or semester upon transfer to any station outside of this state.

(2) No student classified as an in-state student pursuant to this section shall be counted as a resident student for any purpose other than tuition classification.

(3) The Colorado commission on higher education shall report annually, with their budget request, on the enrollment of Canadian military personnel in Colorado institutions of higher education.

**Source:** L. 89: Entire section added, p. 981, § 1, effective June 6.

**23-7-107. Tuition classification of Chinese and Russian students in graduate public policy programs.** (1) Notwithstanding any other provision of this article to the contrary, but subject to subsections (4) and (5) of this section, up to a total of twenty-five students deserving of financial support per year from the Commonwealth of Independent States and the People's Republic of China, five of whom shall be of Tibetan nationality, if possible, who are enrolled in a qualifying master's program at a graduate school of public affairs at a state-supported institution of higher education may be classified as in-state students for purposes of tuition at such institution. The total number of students enrolled under this section may not exceed fifty. To qualify for in-state classification pursuant to this section, such students must be enrolled in a master's program which focuses on developing such students' understanding of democracy and which will enable them to apply the doctrines of democracy and free-market principles upon returning to their respective countries, such students must meet the academic requirements of such program, and such students must meet the requirements stated in subsection (3) of this section. In addition, such students shall plan, following graduation, to return to their respective countries to apply the knowledge obtained from such master's program.

(2) To receive in-state classification pursuant to this section, a student shall annually submit an application to the graduate school of public affairs at the university of Colorado at Denver. The dean and faculty council of such graduate school of public affairs shall annually determine those students who may receive in-state classification based on each student's satisfaction of the requirements stated in this section. Upon determining which students may receive in-state classification, the dean or the faculty council shall notify such students and the state-supported institutions of higher education at which such students are enrolled. Notification shall be made not later than July 1 of each year in which such student receives in-state classification pursuant to this section.



(3) To be eligible for in-state classification pursuant to this section, each student must be enrolled as a full-time student and must maintain a full-time principal residence in this state during the time such student is enrolled. Eligibility for in-state classification for each student shall terminate at the time such student receives a degree from the program in which such student was enrolled at the time such in-state classification was first received.

(4) No student admitted pursuant to this section shall be admitted in lieu of a qualified Colorado resident who is applying to a qualified master's program at the graduate school of public affairs at the university of Colorado at Denver.

(5) No student classified as an in-state student pursuant to this section shall be counted as a resident student for any purpose other than tuition classification.

(6) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

(7) Repealed.

**Source:** L. 93: Entire section added, p. 2113, § 1, effective June 9. L. 2004: (7) repealed, p. 202, § 20, effective August 4.

**23-7-108. Tuition classification of Colorado National Guard personnel.** (1) Notwithstanding any provision of this article to the contrary, a member of the Colorado National Guard who maintains his or her sole residence in Colorado, or the dependent of said member of the Colorado National Guard, shall receive in-state tuition status at any institution of higher education in this state. Said member of the Colorado National Guard shall receive in-state tuition status regardless of whether he or she is eligible for or is receiving tuition assistance pursuant to section 23-5-111.4.

(2) A student who is classified as an in-state student solely pursuant to this section shall not be counted as a resident for any purpose other than tuition classification.

(3) Repealed.

**Source:** L. 2007: Entire section added, p. 1621, § 3, effective July 1. L. 2008: (3) repealed, p. 1644, § 1, effective August 5.

**23-7-108.5. Tuition classification of armed forces veterans.** (1) (a) Notwithstanding any provision of this article to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado shall adopt a policy that grants in-state tuition status to an honorably discharged member of the armed forces of the United States who enrolls in said state institution of higher education and who meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

(b) Notwithstanding any provision of this article to the contrary, beginning with the fall semester of the 2009-2010 academic year, the governing board of each state institution of higher education in Colorado may adopt a policy that grants in-state tuition status to a dependent of an honorably discharged member of the armed forces of the United States who enrolls in said state institution of higher education if the said honorably discharged member of the armed forces meets, for any length of time, the presumptions and rules for maintaining a domicile in Colorado described in section 23-7-103.

(2) A student who is classified as an in-state student solely pursuant to this section shall not be counted as a resident for any purpose other than tuition classification; except that, beginning with the fall semester of the 2011-2012 academic year, upon such classification as an in-state student pursuant to this section, the student shall also be eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of this title.

**Source:** L. 2009: Entire section added, (HB 09-1039), ch. 382, p. 2076, § 3, effective August 5.

**Cross references:** For the short title of the act adding this section, see section 1 of chapter 382, Session Laws of Colorado 2009.

**23-7-108.7. Tuition classification of dependents of members of the armed forces.**

(1) Notwithstanding any provision of this article to the contrary, beginning with the fall semester of the 2012-13 academic year, the governing board of each institution of higher education in Colorado may adopt a policy that grants in-state tuition status to a dependent of an active duty member of the armed forces of the United States if the dependent enrolls in the institution and graduated from a high school outside of Colorado, so long as the dependent completed at least two years of high school in Colorado within five years prior to enrollment in the institution of higher education.

(2) A student who is classified as an in-state student pursuant to subsection (1) of this section shall not be counted as a resident for any purpose other than in-state tuition classification.

**Source: L. 2012:** Entire section added, (HB 12-1350), ch. 272, p. 1441, § 1, effective June 8.

**23-7-109. Tuition classification for employees or employees' children of companies who move to Colorado.**

(1) (a) Notwithstanding any other provision of this article to the contrary, but subject to subsections (2) and (3) of this section, a student who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the student or the student's parent or legal guardian moved to Colorado in the twelve months preceding enrollment as a result of the student's employer or the employer of the student's parent or legal guardian moving all or a portion of its operations to Colorado as a result of receiving an incentive from the Colorado office of economic development, created in section 24-48.5-101, C.R.S., or an incentive from a local government economic incentive program. Each state-supported institution of higher education shall develop a policy to use to verify that the student's employer or the employer of the student's parent or legal guardian did, in fact, move all or a portion of its operations to Colorado as a result of receiving an incentive from the Colorado office of economic development or a local government economic incentive program and that the student or the student's parent or legal guardian was employed by the employer prior to the relocation.

(b) Notwithstanding any other provision of this article to the contrary, but subject to subsections (2) and (3) of this section, a student who otherwise would not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at any state-supported institution of higher education if the student moved to the state of Colorado in the twelve months preceding enrollment as a result of the student's parent or legal guardian moving to Colorado to take a faculty position at a state-supported institution of higher education. Each state-supported institution of higher education shall develop a policy to use to verify that the student's parent or legal guardian moved to Colorado to take a faculty position at a state-supported institution of higher education.

(2) If a student is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that the student shall not be entitled to receive state financial aid.

(3) The governing board of each state-supported institution of higher education may grant in-state tuition status to students classified pursuant to this section.

**Source: L. 2007:** Entire section added, p. 1824, § 2, effective August 3.

**Cross references:** For the legislative declaration contained in the 2007 act enacting this section, see section 1 of chapter 402, Session Laws of Colorado 2007.

**23-7-110. Tuition classification for United States citizens who attend and graduate from Colorado high schools or complete a Colorado general equivalency diploma.**

(1) Notwithstanding any other provision of this article to the contrary, a student who is a United States citizen shall be classified as an in-state student for tuition purposes if:



(a) The student graduated from a public or private high school in this state; and  
(b) (I) The student attended a public or private high school in this state for at least three years immediately preceding the date the student enrolled in a Colorado institution of higher education; or

(II) The student completed a general equivalency diploma in this state and resided in this state for at least three years immediately preceding the date the student enrolled in a Colorado institution of higher education.

(2) Any information provided to satisfy the criteria specified in this section shall be confidential unless disclosure is explicitly required by law.

(3) This section provides an additional option for a student seeking to be classified as an in-state student for tuition purposes. This section shall not be interpreted to impose additional requirements upon a student seeking to be classified as an in-state student for tuition purposes under any other section of this article.

**Source: L. 2008:** Entire section added, p. 884, § 1, effective May 20.

### **23-7-111. Tuition classification for persons who move to Colorado for employment.**

(1) (a) Notwithstanding any other provision of this article to the contrary, and subject to the provisions of subsections (2) to (4) of this section, a child who is a legal resident of the United States and who would otherwise not be classified as an in-state student for tuition purposes under this article may be classified as an in-state student for purposes of tuition at an institution if:

(I) The child's parent or legal guardian moved his or her family to Colorado for the purpose of accepting a job in the state during the child's senior year of high school;

(II) The child moved with his or her parent or legal guardian to Colorado during the child's senior year of high school; and

(III) The child graduated from a Colorado public high school.

(b) Each institution shall develop a policy to verify that a child meets each of the requirements specified in paragraph (a) of this subsection (1).

(2) If a child is classified as an in-state student pursuant to this section, he or she may be counted as a resident student for any purpose; except that the child shall not be entitled to receive state financial aid.

(3) The governing board of each institution may grant in-state tuition status to a child classified as an in-state student pursuant to this section.

(4) If a child is classified as an in-state student pursuant to this section, the child shall not be entitled to receive a stipend pursuant to article 18 of this title for the first year the child is enrolled at an institution.

**Source: L. 2009:** Entire section added, (HB 09-1063), ch. 228, p. 1040, § 2, effective August 5.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 228, Session Laws of Colorado 2009.

## **ARTICLE 7.5**

### **Tuition for Critical Services Programs**

#### **23-7.5-101 to 23-7.5-106. (Repealed)**

**Editor's note:** (1) This article was added in 1985. For amendments to this article prior to its repeal in 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-7.5-106 provided for the repeal of this article, effective June 30, 1990. (See L. 85, p. 785.)

## ARTICLE 8

State Assistance for  
Career and Technical Education

23-8-101.	Legislative declaration.	23-8-103.	ity for state moneys.
23-8-101.5.	Definitions.		Standards for eligibility for
23-8-102.	School districts, boards of		grants - rules.
	cooperative services, and	23-8-104.	Reports.
	institute charter schools con-	23-8-105.	Change of name - authoriza-
	ducting career and technical		tion.
	education courses - eligibil-		

**23-8-101. Legislative declaration.** Nothing in this article shall be construed to prohibit or limit existing programs of career and technical education in any grade level, the value of which is specifically recognized by the general assembly.

**Source:** L. 70: p. 429, § 1. C.R.S. 1963: § 146-4-5. L. 2008: Entire article amended, p. 307, § 1, effective August 5.

**23-8-101.5. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board" means the state board for community colleges and occupational education created in section 23-60-104.

(2) "Board of cooperative services" shall have the same meaning as set forth in section 22-5-103 (2), C.R.S.

(3) "Education provider" means a school district, a board of cooperative services, an institute charter school, or a facility school.

(4) "Education provider's per pupil revenues" means:

(a) For a school district, the district's per pupil revenues, as defined in section 22-54-103 (9.3), C.R.S.;

(b) For a board of cooperative services, the amount received by a board of cooperative services as tuition for students enrolled in an approved career and technical education program;

(c) For an institute charter school, the amount received by an institute charter school pursuant to the provisions of section 22-54-115 (1.3), C.R.S., for any budget year, divided by the number of pupils enrolled in the institute charter school for that budget year; and

(d) For a facility school, the state average per pupil revenues.

(5) "Facility school" means an approved facility school, as defined in section 22-2-402 (1), C.R.S.

(6) "Institute charter school" means a charter school that enters into a charter contract with the state charter school institute pursuant to part 5 of article 30.5 of title 22, C.R.S.

**Source:** L. 2004: Entire section added, p. 1646, § 54, effective July 1. L. 2005: Entire section amended, p. 435, § 11, effective April 29. L. 2008: Entire article amended, p. 307, § 1, effective August 5; entire section amended, p. 1412, § 68, effective August 5. L. 2010: IP(4), (4)(a), and (4)(c) amended, (HB 10-1013), ch. 399, p. 1915, § 46, effective June 10.

**23-8-102. School districts, boards of cooperative services, and institute charter schools conducting career and technical education courses - eligibility for state moneys.** (1) An education provider of the state conducting a course of career and technical education approved pursuant to section 23-8-103 by the board is entitled to career and technical education program support from moneys appropriated for that purpose by the general assembly. The amount of career and technical education program support that an education provider is entitled to receive pursuant to the provisions of this article shall be computed as follows:



(a) The cost of providing the approved career and technical education programs of the education provider shall be computed in accordance with paragraph (c) of this subsection (1). The cost so computed shall be divided by the number of full-time equivalent students to be served by the programs, and the result shall be designated, for purposes of this article, as the education provider's career and technical education program cost per full-time equivalent student.

(b) As career and technical education program support, the state shall provide, to each education provider conducting an approved career and technical education program for each twelve-month period beginning July 1, eighty percent of the first one thousand two hundred fifty dollars, or part thereof, by which the education provider's approved career and technical education program cost per full-time equivalent student exceeds seventy percent of the education provider's per pupil revenues, for the school budget year during which the twelve-month period begins. In addition, if the education provider's approved career and technical education cost per full-time equivalent student exceeds seventy percent of its per pupil revenues by an additional amount in excess of one thousand two hundred fifty dollars, the state shall provide fifty percent of the additional amount.

(c) For the purpose of computing approved career and technical education program costs, the following shall be included:

- (I) The cost of providing the services of instructional personnel for the time involved;
- (II) The cost of services to be provided by another education agency or institution;
- (III) The cost of necessary books and supplies; and
- (IV) The cost of equipment approved for purchase by the board.
- (V) Repealed.

(1.5) Any moneys that are transferred from the department of education to the board to be used by the board to provide career and technical education program support to an education provider pursuant to subsection (1) of this section, and which moneys are so used, shall not be considered a state grant for the purpose of calculating whether the board qualifies as an enterprise, as defined in section 24-77-102 (3) (b), C.R.S.

(2) To be eligible to receive the moneys appropriated pursuant to subsection (1) of this section, the education provider shall assume the obligation of paying the balance of the program costs.

(3) The provisions of this section shall not be construed to prevent an education provider from conducting any course in career and technical education with costs in excess of those for which state career and technical education program support moneys are approved by the board.

(4) Moneys made available under this article shall be distributed quarterly on the basis of the report of actual expenditures furnished to the board by participating education providers at the end of the previous fiscal year. As soon as practicable after July 1 of each year, beginning in 1971, each participating education provider shall file with the board a report of actual expenditures for all career and technical education programs for which the education provider is eligible to receive moneys pursuant to the provisions of this article during the preceding twelve-month period.

(5) If the appropriations to implement subsections (1) to (4) of this section are less than the total amount required to pay the career and technical education program support for approved career and technical education courses, the board shall prorate the amount to be paid to each education provider in the same proportion that the appropriation bears to the total amount so required for distribution. Any unexpended balance of an appropriation shall revert to the general fund at the end of the fiscal year for which the appropriation is made.

(6) The provisions of this section shall not apply to the Colorado customized training program created in section 23-60-306. For the purposes of this section, the costs of such program shall not be included in computing approved career and technical education program costs, and trainees in the Colorado customized training program shall not be counted in computing the number of full-time equivalent students to be served by approved career and technical education programs. Nothing in this section shall preclude the use of school district career and technical education program sites as delivery sites for specific training programs funded by the Colorado customized training program.

(7) The provisions of this section shall not apply to the Colorado existing industry training program created pursuant to section 23-60-307. For the purposes of this section, the costs of such program shall not be included in computing approved career and technical education program costs, and trainees in the Colorado existing industry training program shall not be counted in computing the number of full-time equivalent students to be served by approved career and technical education programs. Nothing in this section shall preclude the use of school district career and technical education program sites as delivery sites for specific training programs funded by the Colorado existing industry training program.

**Source:** **L. 70:** p. 426, § 1. **C.R.S. 1963:** § 146-4-1. **L. 73:** p. 1315, §§ 8, 11. **L. 76:** (1)(b) R&RE, p. 572, § 1, effective July 1. **L. 84:** (6) added, p. 643, § 2, effective July 1. **L. 88:** (6) amended, p. 865, § 2, effective April 20; (1)(c)(V) repealed, p. 777, § 7, effective May 29; (1)(b) amended, p. 821, § 29, effective January 1, 1989. **L. 89:** (7) added, p. 1009, § 2, effective June 7. **L. 94:** (1)(b) amended, p. 822, § 48, effective April 27. **L. 2004:** (1) to (5) amended, p. 1646, § 55, effective July 1. **L. 2005:** IP(1), (1)(a), (1)(b), (2), (3), (4), and (5) amended, p. 436, § 12, effective April 29. **L. 2008:** Entire article amended, p. 308, § 1, effective August 5; (1), (1.5), (2), (3), (4), and (5) amended, p. 1413, § 69, effective August 5. **L. 2010:** (1)(b) amended, (HB 10-1013), ch. 399, p. 1916, § 47, effective June 10.

**Cross references:** For the creation and membership of the state board for community colleges and occupational education, see § 23-60-104; for reimbursement of transportation costs of vocational education, see article 51 of title 22; for replacement of state funds under this section by property tax revenues received under the "Public School Finance Act of 1994", see § 22-54-107.

**23-8-103. Standards for eligibility for grants - rules.** (1) The board shall not approve career and technical education program support to be provided under section 23-8-102 unless the courses of career and technical education conducted by an education provider meet the standards prescribed in subsection (2) of this section.

(2) Any course approved pursuant to subsection (1) of this section shall:

(a) Be designed to provide students with an entry-level occupational skill or prepare students for further education, including but not limited to skills or preparation in the areas of visual arts, as defined in section 22-1-104.5 (1) (c), C.R.S., or performing arts, as defined in section 22-1-104.5 (1) (b), C.R.S.;

(b) (Deleted by amendment, L. 2008, p. 310, § 1, effective August 5, 2008.)

(c) Have a technical advisory committee that functions at the state, regional, or local level to assist education providers in planning and conducting their career and technical education curricula;

(d) Be conducted in facilities that are sufficiently equipped to permit adequate training and education; the facilities may be located within or outside the school district, or, in the case of a program conducted by a board of cooperative services, within or outside any of the school districts participating in the board of cooperative services, and they may be housed in buildings that are not owned or operated by an education provider; and

(e) Meet an employment potential that is found to exist by any survey of the board concerning economic opportunities.

(3) In approving career and technical education programs and career and technical education program support moneys under this article, the board shall attempt to avoid unnecessary duplication in either facilities or staffing for career and technical education in an education provider or within an area of this state; and, where feasible, sharing of facilities shall be required by the board.

(4) The board shall adopt such rules as may be necessary to administer the provisions of this article.

**Source:** **L. 70:** p. 427, § 1. **C.R.S. 1963:** § 146-4-2. **L. 2004:** (1), (2)(c), (2)(d), and (3) amended, p. 1648, § 56, effective July 1. **L. 2005:** (1), (2)(c), (2)(d), and (3) amended,



p. 437, § 13, effective April 29. **L. 2008:** Entire article amended, p. 310, § 1, effective August 5; entire section amended, p. 1415, § 70, effective August 5. **L. 2010:** (2)(a) amended, (HB 10-1273), ch. 233, p. 1025, § 17, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 233, Session Laws of Colorado 2010.

### **23-8-104. Reports.**

(1) (Deleted by amendment, L. 2008, p. 311, § 1, effective August 5, 2008.)

(2) On or before February 28, 2009, and on or before February 28 each year thereafter, the board shall submit a report to the joint budget committee and to the education committees of the house of representatives and the senate, or any successor committees, on the implementation and results of programs funded pursuant to this article, including:

- (a) The types of programs funded;
- (b) The numbers of students and full-time equivalent students served;
- (c) The total cost and the full-time equivalent student cost;
- (d) The placement of those students who completed the programs, including job placement and continuing education; and
- (e) Other aspects of the programs that will enable the general assembly to evaluate the results, cost effectiveness, and viability of the approved programs and to determine whether or not this article should be extended.

**Source:** **L. 70:** p. 428, § 1. **C.R.S. 1963:** § 146-4-4. **L. 72:** p. 628, § 1. **L. 73:** p. 1315, § 9. **L. 96:** IP(2) amended, p. 1238, § 87, effective August 7. **L. 2008:** Entire article amended, p. 311, § 1, effective August 5.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-8-105. Change of name - authorization.** The revisor of statutes is authorized, where appropriate, to change all references to “vocational education” in the Colorado Revised Statutes to “career and technical education”.

**Source:** **L. 2008:** Entire article amended, p. 311, § 1, effective August 5.

## **ARTICLE 9**

### **State Council on the Arts**

#### **23-9-101 to 23-9-107. (Repealed)**

**Source:** **L. 2006:** Entire article repealed, p. 1659, § 4, effective July 1.

**Editor’s note:** This article was numbered as §§ 3-18-9 through 3-18-16 in C.R.S. 1963. For amendments to this article prior to its repeal in 2006, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to article 48.8 of title 24. For the location of specific provisions, see the editor’s notes following each section in said article 48.8.

**ARTICLE 10****Termination of Employment - Faculty Members****23-10-101 to 23-10-301. (Repealed)**

**Editor's note:** (1) This article was added in 1975. For amendments to this article prior to its repeal in 1988, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) The repeal provision of § 23-10-301, added by revision, provided for the repeal of this article, effective May 1, 1988. (See L. 87, p. 851.)

**Cross references:** For present provisions concerning termination of employment of faculty members at certain state-supported institutions of higher education, see § 23-5-117.

**ARTICLE 11****Colorado Advanced Technology Institute****23-11-101 to 23-11-107. (Repealed)**

**Source:** L. 99: Entire article repealed, p. 876, § 1, effective July 1.

**Editor's note:** (1) This article was added in 1983. For amendments to this article prior to its repeal in 1999, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Sections 23-11-104 and 23-11-105 were relocated to article 1 of this title and renumbered as §§ 23-1-106.5 and 23-1-106.7, respectively.

(3) Section 23-11-104.5 as enacted by House Bill 99-1102 was relocated to article 32 of title 24 and renumbered as § 24-32-3001.

**ARTICLE 11.5****Technology Learning Grant  
and Revolving Loan Program****23-11.5-101 to 23-11.5-107. (Repealed)**

**Editor's note:** (1) This article was added in 1996. For amendments to this article prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-11.5-107 provided for the repeal of this article, effective April 4, 2003. (See L. 2003, p. 5.)

**ARTICLE 12****Reorganization of Governance  
of Higher Education****23-12-101 to 23-12-103. (Repealed)**

**Editor's note:** (1) This article was added in 1984 and was not amended prior to its repeal in 1985. For the text of this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.



(2) Section 23-12-103 provided for the repeal of this article, effective July 1, 1985. (See L. 84, p. 635.)

## ARTICLE 13

### Higher Education Statewide Expectations and Goals and Quality Indicator System

#### 23-13-101 to 23-13-108. (Repealed)

**Source: L. 2011:** Entire article repealed, (SB 11-052), ch. 232, p. 999, § 5, effective May 27.

**Editor's note:** This article was added in 1985, repealed and reenacted in 1996, and repealed in 2011. For amendments to this article prior to 2011, consult the 2010 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the legislative declaration in the 2011 act repealing this article, see section 1 of chapter 232, Session Laws of Colorado 2011.

## ARTICLE 15

### Colorado Educational and Cultural Facilities Authority

23-15-101.	Short title.	23-15-117.	Payment of bonds - nonliability of state.
23-15-102.	Legislative declaration.	23-15-118.	Exemption from taxation and securities law.
23-15-103.	Definitions.	23-15-119.	Rents and charges.
23-15-104.	Authority - creation - board - organization.	23-15-120.	Fees.
23-15-105.	Organizational meeting - chairman - executive director - surety bond - conflict of interest.	23-15-121.	Conveyance of title - release of lien.
23-15-106.	Meetings of board - quorum - expenses.	23-15-122.	Investment of funds.
23-15-107.	General powers of the authority.	23-15-123.	Proceeds as trust funds.
23-15-108.	Acquisition of property.	23-15-124.	Agreement of the state not to limit or alter rights of obligees.
23-15-109.	Notes.	23-15-125.	Enforcement of rights of bondholders.
23-15-110.	Bonds.	23-15-126.	Bonds eligible for investment.
23-15-110.5.	Colorado education savings program.	23-15-127.	Account of activities and receipts for expenditures - report - audit.
23-15-111.	Negotiability of bonds.	23-15-128.	Federal social security act.
23-15-112.	Security for bonds and notes.	23-15-129.	Powers of authority not restricted - law complete in itself.
23-15-113.	Personal liability.	23-15-130.	Powers in addition to those granted by other laws.
23-15-114.	Purchase.	23-15-131.	Annual report. (Repealed)
23-15-115.	Procedure before expenditure of proceeds.		
23-15-116.	Trust agreement to secure bonds.		

**23-15-101. Short title.** This article shall be known and may be cited as the "Colorado Educational and Cultural Facilities Authority Act".

**Source: L. 81:** Entire article added, p. 1096, § 1, effective July 1. **L. 98:** Entire section amended, p. 601, § 1, effective May 4.

**23-15-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is the intent of the general assembly to create the Colorado educational and cultural facilities authority to lend money to educational institutions and cultural institutions; to authorize the authority to acquire, construct, reconstruct, repair, alter, improve, extend, own, lease, and dispose of properties to the end that the authority may be able to promote the welfare of the people of this state; to authorize the authority to administer the Colorado education savings program; to permit the bonds or certificates of participation of the authority and the bonds or certificates of participation of other issuers to be designated as Colorado education savings bonds or certificates; and to vest such authority with powers to enable such authority to accomplish such purposes. It is not the intent of the general assembly to authorize the authority to operate any such educational or cultural facility.

(b) It is important that educational facilities and cultural facilities are made readily available by networks and organizations of educational institutions and cultural institutions regardless of whether such networks and organizations are located within the state of Colorado or have facilities located within or outside the state of Colorado; and

(c) It is a benefit to the people of the state of Colorado to serve multistate educational institutions and cultural institutions since education-related and cultural-related employment opportunities in this state will be created as a result thereof.

(2) This article shall be liberally construed to accomplish the intentions expressed in this section.

**Source: L. 81:** Entire article added, p. 1096, § 1, effective July 1. **L. 88:** (1) amended, p. 849, § 1, effective April 20. **L. 89:** (1) amended, p. 986, § 1, effective April 8; (1) amended, p. 982, § 1, effective April 12. **L. 98:** (1) amended, p. 601, § 1, effective May 4. **L. 2000:** (1) amended, p. 403, § 1, effective April 13.

**Editor's note:** Amendments to subsection (1) in Senate Bill 89-206 and House Bill 89-1049 were harmonized.

**23-15-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Authority" means the Colorado educational and cultural facilities authority created by this article.

(2) "Board" means the board of directors of the authority.

(3) "Bond", "note", "bond anticipation note", "certificate of participation", or "other obligation" means any bond, note, certificate of participation in annually renewable leases, debenture, interim certificate, or other evidence of financial indebtedness issued by the authority pursuant to this article or issued by another issuer pursuant to other statutory authority, including refunding bonds.

(4) "Bond resolution" means the resolution authorizing the issuance of, or providing terms and conditions related to, bonds issued under the provisions of this article and includes any trust agreement, trust indenture, indenture of mortgage, or deed of trust providing terms and conditions for such bonds.

(5) "Commission" means the Colorado commission on higher education.

(6) "Costs", as applied to facilities financed in whole or in part under the provisions of this article, means and includes the sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, equipment, enlargement, improvement, and extension of such facilities and the acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interest acquired, necessary, used for, or useful for or in connection with a facility and all other undertakings which the authority deems reasonable or necessary for the development of a facility, including without limitation the cost of studies and surveys, of land title and mortgage guaranty policies, of plans, specifications, and architectural and engineering services, of



legal, accounting, organization, marketing, or other special services, of financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings, of rehabilitation, reconstruction, repair, or remodeling of existing buildings, and of all other necessary and incidental expenses, including working capital, an initial bond, and interest reserve funds, together with interest on bonds issued to finance such facilities until a date not more than six months subsequent to the estimated date of completion.

(6.3) (a) “Cultural institution” means any governmental, quasi-governmental, or non-profit institution that engages in cultural, intellectual, scientific, educational, or artistic enrichment. “Cultural institution” includes, without limitation, any aquarium, botanical society, educational society, historical society, library, museum, gallery, performing arts association or society, nonprofit sports association, committee, or governing body, scientific society, natural history society or organization, zoological society, society for western history and western culture, sponsor of housing facilities that serve the cultural needs of their residents, and any private nonprofit foundation, nonprofit association, or other entity that is organized principally for the support and benefit of any of the foregoing.

(b) “Cultural institution” also includes any governmental, quasi-governmental, or nonprofit institution, corporation, association, or organization that, through one or more affiliates, directly or indirectly engages in cultural, intellectual, scientific, educational, or artistic enrichment in this state or outside this state if:

(I) Such institution, corporation, association, or organization, or an affiliate of such an entity, is engaged in a financing or refinancing on behalf of a facility within this state or outside of this state; and

(II) Such institution, corporation, association, or organization, or an affiliate of such an entity, operates a cultural facility within this state.

(c) (Deleted by amendment, L. 2003, p. 2055, § 1, effective May 22, 2003.)

(6.5) “Deep discount” means any obligation for which the original purchase price is substantially less than the par amount paid upon maturity.

(7) (Deleted by amendment, L. 2006, p. 1496, § 31, effective June 1, 2006.)

(8) (a) “Educational institution” means any governmental, quasi-governmental, or nonprofit educational institution operating in this state that:

(I) Provides an educational program for which it awards a bachelor’s degree; or

(II) Provides not less than a two-year program which is acceptable for full credit towards such a degree; or

(III) Provides not less than a six-month program of training to prepare students for gainful employment; or

(IV) Provides not less than a six-month program of training to develop, improve, or enhance the occupational skills of persons in their current positions of employment or of persons seeking employment in a new or different occupation; or

(V) Provides an educational program pursuant to a charter from a school district in accordance with applicable laws; or

(VI) Provides an educational program to the residents of the state; or

(VII) Provides or finances, directly or indirectly through one or more affiliates, an educational program or educational services in this state or outside this state; or

(VIII) Is any public school district; or

(IX) Provides an educational program pursuant to a contract with the state charter school institute in accordance with applicable laws.

(b) (Deleted by amendment, L. 2004, p. 1518, § 1, effective May 28, 2004.)

(c) “Educational institution” includes any private foundation, nonprofit association, or any other entity which is organized principally for the support and benefit of any educational institution defined in paragraph (a) of this subsection (8) and includes but is not limited to the Auraria higher education center. Any reference in this article to “educational institution supported in whole or in part by state funds” includes but is not limited to the Auraria higher education center.

(8.5) (a) (I) (A) “Facility”, in the case of a participating educational institution, means any structure or building suitable for use as a housing facility, an instructional facility, an administration building, a research facility, a laboratory, a maintenance, storage, or utility facility, an auditorium, a dining hall, a food service and preparation facility, a

mental or physical health care facility, a recreational facility, or a student center facility or any other structure or facility required or useful for the operation of an educational institution, including, but not limited to: Offices, parking lots and garages, and other supporting service structures; any equipment, furnishings, and appurtenances necessary or useful in the operation of a participating educational institution; and the acquisition, preparation, and development of all real and personal property necessary or convenient as a site or sites for any such structure or facility.

(B) "Facility", in the case of a participating educational institution, also means any structure or building described in sub-subparagraph (A) of this subparagraph (I) that is located within the state or outside the state and that is operated or financed by an educational institution if such institution operating or financing such structure or building, or an affiliate of such institution, operates or finances an educational facility within this state.

(II) (A) "Facility", in the case of a cultural institution, means any property that is suitable for the particular purposes of a cultural institution, including, without limitation, any such property suitable for use as or in connection with the operation of any one or more of the following: An administrative facility, an aquarium, an assembly hall, an auditorium, a botanical garden, an exhibition or performance hall or structure, a gallery, a greenhouse, a library, a museum, a scientific laboratory, a housing facility that serves the cultural needs of its residents and is being financed as part of a multistate program of financing educational or cultural facilities under this article, a theater, or a zoological facility; and also including, without limitation, the books, works of art or music, and the animal, plant, or aquatic life or other items contained therein for display, exhibition, or performance. The term "facility" includes any other structure or facility required or useful for the operation of a cultural institution including, but not limited to, offices, parking lots and garages, and other supporting service structures; any equipment, furnishings, and appurtenances necessary or useful in the operation of a cultural institution; and the acquisition, preparation, and development of all real and personal property necessary or convenient as a site or sites for any such structure or facility. The term "facility" also includes buildings on the national register of historic places which are owned and operated by nonprofit entities.

(B) "Facility", in the case of a cultural institution, also means any property described in sub-subparagraph (A) of this subparagraph (II) that is located within the state or outside the state and that is operated or financed by a cultural institution if such institution operating or financing such property, or an affiliate of such institution, also operates or finances a cultural facility within this state.

(b) "Facility" does not include such items as food, fuel, supplies, or other items which are customarily considered as current operating expenses or charges.

(9) "Refinancing of outstanding obligations" means liquidation, with the proceeds of bonds or notes issued by the authority, of any indebtedness of a participating educational institution or cultural institution incurred prior to, on, or after July 1, 1981, to finance or aid in financing a lawful purpose of such institution not financed pursuant to this article which would constitute a facility had it been undertaken and financed by the authority. The term also means consolidation of such indebtedness with indebtedness of the authority incurred for a facility related to the purpose for which the indebtedness of such institution was initially incurred.

(10) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of such facilities.

(11) "Zero-coupon" means any obligation, as defined in subsection (3) of this section, which is payable in one payment on a fixed date.

**Source:** L. 81: Entire article added, p. 1096, § 1, effective July 1. L. 83: (8)(a)(III) amended and (8)(c) added, p. 804, § 1, effective May 25. L. 85: (8)(a)(III) and (8)(c) amended and (8)(a)(IV) added, p. 786, § 1, effective April 12. L. 88: (11) added, p. 849, § 2, effective April 20. L. 89: (6.3) added and (7)(a) and (9) amended, p. 986, § 2, effective April 8; (3) and (11) amended and (6.5) added, p. 982, § 2, effective April 12. L. 98: (1), (7)(a)(I), (8), and (9) amended, p. 601, § 3, effective May 4. L. 2000: (6.3),



(7)(a), and IP (8)(a) amended and (8)(a)(VII) added, p. 404, § 2, effective April 13. **L. 2002:** (8)(a)(VIII) added, p. 1744, § 16, effective June 7. **L. 2003:** (6.3)(c), (7)(b), and (8)(b) amended, p. 2055, § 1, effective May 22. **L. 2004:** (6.3)(a), (7)(a)(II)(A), and (8)(b) amended, p. 1518, § 1, effective May 28; (8)(a)(VIII) amended and (8)(a)(IX) added, p. 1648, § 57, effective July 1. **L. 2006:** (7) amended and (8.5) added, p. 1496, § 31, effective June 1. **L. 2008:** (8)(a)(VIII) amended, p. 1066, § 11, effective May 22.

**23-15-104. Authority - creation - board - organization.** (1) (a) There is hereby created an independent public body politic and corporate to be known as the Colorado educational and cultural facilities authority. Said authority is constituted a public instrumentality, and its exercise of the powers conferred by this article shall be deemed and held to be the performance of an essential public function. The authority shall be a body corporate and a political subdivision of the state and shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state.

(b) The legal effects of any statute heretofore designating the Colorado educational and cultural facilities authority by any other name, or property rights heretofore incurred under any other name, shall not be impaired.

(2) The governing body of the authority shall be a board of directors, which shall consist of seven members to be appointed by the governor, with the consent of the senate. Such members shall be residents of the state. No more than four of the members shall be of the same political party. Except as provided in this subsection (2), the members of the board first appointed shall serve for terms to be designated by the governor, expiring on June 30 of each year beginning in 1982 and ending in 1988. The governor, with the consent of the senate, may appoint the members of the board of directors of an existing authority created under state law as the board of directors of the authority, in which case the terms of such directors shall be the same as their existing terms on the board of such other authority. Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter upon the expiration of the term of any member, his successor shall be appointed for a term of four years. Each member shall serve until his resignation or, in the case of a member whose term has expired, until his successor has been appointed and has qualified. Any member shall be eligible for reappointment. The governor shall fill any vacancy by appointment for the remainder of an unexpired term. Any member appointed by the governor when the general assembly is not in regular session, whether appointed for an unexpired term or for a full term, shall be deemed to be duly appointed and qualified until the appointment of such member is approved or rejected by the senate. Such appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(3) (a) Any member of the board may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless such notice and hearing is expressly waived in writing.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a member shall be removed by the governor if such member fails, for reasons other than temporary mental or physical disability or illness, to attend three regular meetings of the board during any twelve-month period without the board having entered upon its minutes an approval for any of such absences.

**Source:** **L. 81:** Entire article added, p. 1098, § 1, effective July 1. **L. 83:** (2) amended, p. 804, § 2, effective May 25. **L. 87:** (2) amended, p. 907, § 15, effective June 15. **L. 98:** (1) amended, p. 605, § 5, effective May 4.

**Cross references:** For limitation on issuance of private activity bonds, see part 17 of article 32 of title 24; for the provisions that designate the Colorado postsecondary educational facilities authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

**23-15-105. Organizational meeting - chairman - executive director - surety bond - conflict of interest.** (1) A member of the board, designated by the governor, shall call and

convene the initial organizational meeting of the board and shall serve as its chairman pro tempore. At such meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the election or appointment of officers, the delegation of certain powers and duties, and such other matters as the authority deems proper. At such meeting and annually thereafter, the board shall elect one of its members as chairman and one as vice-chairman. It shall appoint an executive director and, if desired, an associate executive director, who shall not be members of the board and who shall serve at its pleasure. They shall receive such compensation for their services as shall be fixed by the board.

(2) The executive director, the associate executive director, or any other person designated by the board shall keep a record of the proceedings thereof and shall be custodian of all books, documents, and papers filed with the board, the minute books or journal thereof, and its official seal. Said executive director, associate executive director, or other person may cause copies of all minutes and other records and documents of the board to be made and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely on such certificates.

(3) The board may delegate, by resolution, to one or more of its members or to its executive director or associate executive director such powers and duties as it may deem proper.

(4) Before the issuance of any bonds under this article, the executive director and associate executive director shall each execute a surety bond in the penal sum of one hundred thousand dollars, and each member of the board shall execute a surety bond in the penal sum of fifty thousand dollars, or, in lieu thereof, the chairman of the board shall execute a blanket bond covering each member, the executive director, the associate executive director, and the employees or other officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety authorized to transact business in this state as surety. The cost of each such bond shall be paid by the authority.

(5) Notwithstanding any other law to the contrary, it shall not constitute a conflict of interest for a trustee, director, officer, or employee of any educational institution, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architectural firm, or other firm, person, or corporation to serve as a member of the board; except that such trustee, director, officer, or employee shall disclose such interest to the board and may abstain from deliberation, action, and voting by the board in each instance where the business affiliation of any such trustee, director, officer, or employee is involved.

**Source:** L. 81: Entire article added, p. 1099, § 1, effective July 1. L. 98: (5) amended, p. 605, § 6, effective May 4.

**23-15-106. Meetings of board - quorum - expenses.** (1) Four members of the board shall constitute a quorum for the purpose of conducting business and exercising its powers. Action may be taken by the board upon the affirmative vote of at least four of its members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Each meeting of the board for any purpose whatsoever shall be open to the public. Notice of meetings shall be as provided in the bylaws of the authority. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board shall be a public record.

(3) Members of the board shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling and lodging expenses, incurred in the discharge of their official duties. Any payments for compensation and expenses shall be paid from funds of the authority.

**Source:** L. 81: Entire article added, p. 1100, § 1, effective July 1.

**23-15-107. General powers of the authority.** (1) In addition to any other powers granted to the authority by this article, the authority shall have the following powers:



- (a) To have perpetual existence and succession as a body politic and corporate;
- (b) To adopt and from time to time amend or repeal bylaws for the regulation of its affairs and the conduct of its business, consistent with the provisions of this article;
- (c) To sue and be sued;
- (d) To have and to use a seal and to alter the same at pleasure;
- (e) To maintain an office at such place or places as it may designate;
- (f) To determine, in accordance with the provisions of this article, the location and character of any facility to be financed under the provisions of this article and to acquire, construct, reconstruct, renovate, improve, alter, replace, maintain, repair, operate, and lease such facility as lessee or lessor; to enter into contracts for any and all of such purposes and for the management and operation of a facility; and to designate a participating educational institution or cultural institution as its agent to determine the location and character of a facility undertaken by such participating institution under the provisions of this article and, as agent of the authority, to acquire, construct, reconstruct, renovate, replace, alter, improve, maintain, repair, operate, lease as lessee or lessor, and regulate the same and to enter into contracts for any and all of such purposes including contracts for the management and operation of such facility;
- (g) To lease to a participating institution of postsecondary education or cultural institution any or all of the facilities upon such terms and conditions as the authority shall deem proper, including, but not limited to, renewable, one-year leases with institutions of postsecondary education supported in whole or in part by state funds if authorized pursuant to section 23-1-106 or section 24-82-709, C.R.S., or a lease-purchase agreement authorized pursuant to sections 24-82-102 (1) (b) and 24-82-801, C.R.S.; to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods, at such rent, and upon such terms or conditions as shall be determined by the authority or to purchase any or all of the facilities or to include, if desired, provisions that, upon payment of all of the indebtedness incurred by the authority for the financing of such facilities, the authority will convey any or all of the facilities to the lessee or lessees thereof with or without consideration;
- (h) To borrow money and to issue bonds, notes, bond anticipation notes, or other obligations for any of its corporate purposes and to fund or refund the same, all as provided for in this article;
- (i) To establish rules and regulations, and to designate a participating educational institution or cultural institution as its agent to establish such rules and regulations, for the use of the facilities undertaken or operated by such participating institution and to employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment and to fix their compensation;
- (j) To receive and accept from the federal government or any other public agency loans, grants, or contributions for or in aid of the construction of facilities or any portion thereof, or for equipping the same, and to receive and accept grants, gifts, or other contributions from any source, but only for the purposes for which they were loaned, contributed, or granted;
- (k) To mortgage or pledge all or any portion of the facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the holders of bonds issued to finance such facilities or any portion thereof;
- (l) To make mortgage loans or other secured or unsecured loans to any participating educational institution or cultural institution for the cost of the facilities in accordance with an agreement between the authority and such participating institution; but no such loan shall exceed the total cost of such facilities as determined by such participating institution and approved by the authority;
- (m) To make mortgage loans or other secured or unsecured loans to a participating educational institution or cultural institution; to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating institution for the cost of its facilities, including the issuance of bonds and the making of loans to a participating

educational institution or cultural institution; or to refinance outstanding obligations and indebtedness incurred for facilities when the authority finds that such financing is in the public interest and alleviates the financial hardship upon the participating educational institution or cultural institution or is in connection with other financing by the authority for such participating institution;

(n) To obtain or aid in obtaining, from any department or agency of the United States or of this state or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of the interest or principal, or both the interest and principal, or any part of either or both on any loan, lease, or obligation or any instrument evidencing or securing the same made or entered into pursuant to the provisions of this article and, notwithstanding any other provisions of this article, to enter into any agreement, contract, or other instrument whatsoever with respect to any such insurance or guarantee, to accept payment in such manner and form as provided therein in the event of default by a participating educational institution or cultural institution, and to assign any such insurance or guarantee as security for the authority's bonds;

(o) To charge to and equitably apportion among participating educational institutions or cultural institutions the administrative costs and expenses of the authority incurred in the exercise of the powers granted and the duties conferred by this article;

(p) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;

(q) To do all other things necessary and convenient to carry out the purposes of this article;

(r) To make mortgage loans or other secured or unsecured loans to any person for the costs of a facility which will be made available for use by an educational institution or a cultural institution, if the governing body of such institution has resolved that the use of such facility will be in the best interests of such institution; but no such loan shall exceed the total cost of said facility as determined by said institution and approved by the authority;

(s) To refund or refinance, through the issuance of bonds and the making of loans, any outstanding obligations, mortgages, indebtednesses, or advances issued, made, or given by a person for the cost of facilities which will be made available for use by an educational institution or a cultural institution when the governing board of such institution finds that the use of said facility is in the best interests of said institution;

(t) To administer the Colorado education savings program pursuant to the provisions of section 23-15-110.5;

(u) To designate bonds or certificates of participation of the authority as Colorado education savings bonds or certificates pursuant to the provisions of section 23-15-110.5;

(v) To designate as Colorado education savings bonds or certificates the bonds or certificates of participation of issuers other than the authority if the issuer has applied for such designation and the authority has determined that such instruments satisfy the criteria established in section 23-15-110.5 (2).

(2) The authority shall not have the power to operate a facility as a business other than as a lessee or lessor.

(3) No institution of postsecondary education supported in whole or in part by state funds shall contract or otherwise agree with the authority to issue bonds on its behalf unless all approvals required by law, including but not limited to approvals required pursuant to section 23-1-106 and section 24-82-709, C.R.S., have been obtained.

(4) Repealed.

(5) No mortgage loan, other secured or unsecured loan, or financing, refinancing, refunding, or other financial obligation incurred pursuant to the terms of this article for the benefit of a charter school as described in section 23-15-103 (8) (a) (V), shall obligate, directly or indirectly, the school district that granted the charter to the charter school unless:

(a) The express written consent of the school district is obtained; and

(b) The authority obtains a written opinion of legal counsel that the obligation of the school district is legally permissible under the Colorado constitution and all applicable laws.

**Source:** L. 81: Entire article added, p. 1100, § 1, effective July 1. L. 83: (1)(r) and (1)(s) added and (3) amended, p. 805, §§ 3, 4, effective May 25. L. 84: (3) amended, p.



636, § 1, effective April 5. **L. 85:** (1)(g) and (2) amended, p. 786, § 2, effective April 12. **L. 89:** (1)(f), (1)(g), (1)(i), (1)(l) to (1)(o), (1)(r), (1)(s), (2), and (3) amended and (4) added, pp. 988, 990, §§ 3, 4, effective April 8; (1)(t) to (1)(v) added, p. 983, § 3, effective April 12. **L. 92:** (4) repealed, p. 585, § 1, effective March 19. **L. 98:** (1)(f), (1)(i), (1)(l) to (1)(o), (1)(r), and (1)(s) amended and (5) added, p. 603, § 4, effective May 4. **L. 2003:** (1)(g) amended, p. 1377, § 6, effective April 28. **L. 2009:** (1)(g) amended, (HB 09-1218), ch. 132, p. 574, § 9, effective July 1.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsection (1)(g), see section 1 of chapter 190, Session Laws of Colorado 2003.

**23-15-108. Acquisition of property.** The authority, directly or by or through a participating educational institution or cultural institution as its agent, may acquire by purchase, lease, gift, devise, or other means such lands, structures, real or personal property, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights which are located within or without the state, as it may deem necessary or convenient for the construction, acquisition, or operation of facilities, upon such terms as may be considered by the authority to be reasonable, and may take title thereto in the name of the authority or in the name of such participating educational institution or cultural institution as its agent.

**Source:** **L. 81:** Entire article added, p. 1102, § 1, effective July 1. **L. 89:** Entire section amended, p. 990, § 5, effective April 8. **L. 98:** Entire section amended, p. 605, § 7, effective May 4.

**23-15-109. Notes.** The authority may issue from time to time its negotiable notes for any corporate purpose, including the payment of all or any part of the cost of any facility, and may renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for some other purpose. The notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants, or conditions which it is authorized to include in any bonds. All such notes shall be payable from the proceeds of bonds or renewal notes or from the revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

**Source:** **L. 81:** Entire article added, p. 1102, § 1, effective July 1.

**23-15-110. Bonds.** (1) The authority may issue from time to time its bonds in such principal amounts as the authority shall determine for the purpose of financing all or a part of the cost of any facilities authorized by this article or for the refinancing of outstanding obligations. In anticipation of the sale of such bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged or from the proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds. Such notes and the resolution or resolutions authorizing them may contain any provisions, conditions, or limitations which a bond resolution of the authority may contain.

(2) The bonds may be issued as serial bonds, as term bonds, or as a combination of both types. All bonds issued by the authority shall be payable solely out of the revenues and receipts derived from the leasing, mortgaging, or sale by the authority of the facilities concerned or of any part thereof as designated in the resolutions of the authority under

which the bonds are authorized to be issued or as designated in a trust indenture authorized by the authority, which trust indenture shall name a bank or trust company in Colorado, or outside of Colorado if it is determined by the authority to be in the best interests of the financing, such determination to be conclusive, as trustee, or out of other moneys available therefor and not otherwise pledged. Such bonds may be executed and delivered by the authority at such times, may be in such form and denominations and include such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such time or times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state of Colorado, may bear interest at such rate or rates per annum as shall be determined by the authority or as may be determined from time to time by a designated agent of the authority in accordance with specified standards and procedures and without regard to any interest rate limitation appearing in any other law, may be evidenced in such manner, may be executed by such officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which manual signature may be either that of an officer of the authority or that of an officer of the trustee authenticating the same, may be in such form of coupon bonds having attached thereto interest coupons bearing the facsimile signature of an authorized officer of the authority, and may contain such provisions not inconsistent with this article as shall be provided in the resolutions of the authority under which the bonds are authorized to be issued or as is provided in a trust indenture authorized by the authority. Notwithstanding anything in this subsection (2) to the contrary, in the case of short-term notes or other obligations maturing not later than one year from the date of issuance thereof, the board may authorize the executive director, associate executive director, or any officer of the board to fix principal amounts, maturity dates, interest rates, and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum net effective interest rates as the board shall prescribe by resolution, and such authorization shall remain effective for the period of time designated in the initial resolution regardless of whether the composition of the board changes in the interim unless sooner rescinded by the board.

(3) If deemed advisable by the authority, there may be retained in the resolutions or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such resolutions or in such trust indenture, at such price or prices, after such notice or notices, and on such terms and conditions as may be set forth in such resolutions or in such trust indenture and as may be briefly recited on the face of the bonds; but nothing in this article shall be construed to confer on the authority the right or option to redeem any bonds except as may be provided in the resolutions or in such trust indenture under which they are issued.

(4) The bonds or notes of the authority may be sold at public or private sale for such price or prices, in such manner, and at such times as may be determined by the authority, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance thereof. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates to be exchanged for such definitive bonds.

(5) (a) Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facilities or any other facilities or for any other purpose under this article, but the resolutions or trust indenture under which any subsequent bonds may be issued shall recognize the terms and provisions of any prior pledge or mortgage made for any prior issue of bonds and the terms upon which such additional bonds may be issued and secured. Any outstanding bonds of the authority may, at any time and from time to time, be refunded or advance refunded by the authority by the issuance of its bonds for such purpose and in such principal amount as may be determined by the authority, which may include interest accrued or to



accrue thereon with or without giving effect to investment income thereon and other expenses necessary to be paid in connection therewith. If deemed advisable by the authority, such bonds may be refunded or advance refunded for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a facility or any portion thereof.

(b) Any such refunding may be effected whether the bonds to be refunded have then matured or will mature thereafter either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds to be so refunded, regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities or for any other purpose under this article and regardless of whether or not the bonds proposed to be refunded are payable on the same date or different dates or are due serially or otherwise. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may be applied, in the discretion of the authority, to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and, pending such application, may be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested or deposited in securities or depositories meeting the requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such time or times as are appropriate to assure the prompt payment as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profit, if any, earned or realized on any such investment may also be applied, in the discretion of the authority, to the payment of the outstanding bonds or notes to be so refunded or to the payment of principal and interest on the refunding bonds or for any other purpose under this article. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a facility may be invested or deposited in securities or depositories meeting the requirements established in part 6 of article 75 of title 24, C.R.S., maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income, and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner. All such bonds shall be subject to the provisions of this article in the same manner and to the same extent as other bonds issued pursuant to this article.

**Source:** **L. 81:** Entire article added, p. 1103, § 1, effective July 1. **L. 84:** (2) amended, p. 636, § 2, effective April 5. **L. 89:** (5)(b) amended, p. 1109, § 14, effective July 1.

**23-15-110.5. Colorado education savings program.** (1) There is hereby established the Colorado education savings program which shall be administered by the authority and which shall include, but need not be limited to, components concerning bonds and certificates, education, financial incentives, and alternative payment plans. In furtherance of the Colorado education savings program and in addition to any powers, duties, and responsibilities enumerated in this article, the authority may:

(a) Designate the bonds or certificates of participation of the authority as Colorado education savings bonds or certificates;

(b) Designate the bonds or certificates of participation of issuers other than the authority as Colorado education savings bonds or certificates if the issuer of such instruments applies for such designation and if such instruments satisfy the criteria established in subsection (2) of this section.

(2) Bonds or certificates of participation may be designated as Colorado education savings bonds or certificates pursuant to subsection (1) of this section if such instruments satisfy the following criteria:

(a) The bonds or certificates are structured and are to be marketed statewide by the underwriters in such a manner as to attract a broad range of investors in the retail Colorado bond market, including, but not limited to, parents, grandparents, or others who are interested in planning for the college education of their children;

(b) The interest on the bonds or certificates is exempt from Colorado income taxation;

(c) The bonds or certificates are issued by a state or local governmental entity, agency, institution, subdivision, district, or financing authority on its own behalf or on behalf of a nonprofit organization which is exempt from federal taxation pursuant to section 501 (c) (3) of the "Internal Revenue Code of 1986", as amended, or on behalf of a nonprofit corporation which is organized principally for the support and benefit of such state or local governmental entity, agency, institution, subdivision, district, financing authority, or nonprofit corporation;

(d) The bonds or certificates, at the time such instruments are designated as Colorado education savings bonds or certificates, are rated in one of the two highest rating categories of such instruments by one or more nationally recognized organizations which regularly rate such obligations;

(e) The bonds or certificates are either zero-coupon, deep discount, or comparable instruments and the maturation dates of such instruments are structured to the extent possible both to accommodate the financing needs of the issuer or the entity on whose behalf the instruments are being issued and to fulfill the needs of individuals planning on using the proceeds of such instruments for education purposes.

(3) The authority shall collaborate with the Colorado commission on higher education on the development of educational materials designed to inform parents and others concerning the importance of accumulating the financial resources necessary to pay for a child's college education and the options available to accomplish that accumulation of resources, including the option of investing in Colorado education savings bonds or certificates.

(4) The authority shall evaluate the feasibility of:

(a) Payment of financial incentives to holders of Colorado education savings bonds or certificates if, at maturity, the proceeds of such bonds or certificates are applied to expenses incurred for education in the state of Colorado;

(b) Staggered or periodic forms of payment for Colorado education savings bonds or certificates, including, but not limited to, payroll deduction plans;

(c) Matching employer-employee purchase plans for Colorado education savings bonds or certificates.

(5) No bond, certificate, or other financial instrument sold, traded, conveyed, or otherwise transferred in the state shall bear the designation, logo, trade name, or trademark of a Colorado education savings bond or certificate, nor shall any such bond or financial instrument be called, described, marketed, or otherwise be made to appear to a reasonable person to be a Colorado education savings bond or certificate unless such bond or financial instrument has been so designated pursuant to this section.

**Source:** L. 88: Entire section added, p. 849, § 3, effective April 20. L. 89: Entire section R&RE, p. 983, § 4, effective April 12. L. 98: (2)(e) and (4)(a) amended, p. 606, § 8, effective May 4.

**23-15-111. Negotiability of bonds.** All bonds and the interest coupons applicable thereto are hereby declared and shall be construed to be negotiable instruments.

**Source:** L. 81: Entire article added, p. 1105, § 1, effective July 1.

**23-15-112. Security for bonds and notes.** (1) The principal of and interest on any bonds or notes issued by the authority may be secured by a pledge of or security interest in the revenues, rentals, and receipts out of which the same may be made payable or from other moneys available therefor and not otherwise pledged or used as security and may be secured by a trust indenture, mortgage, or deed of trust (including assignment of leases or



other contract rights of the authority thereunder) covering all or any part of the facilities from which the revenues, rentals, or receipts so pledged or used as security may be derived, including any enlargements of and additions to any such facility thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture, mortgage, or deed of trust may contain any agreements and provisions which shall be a part of the contract with the holders of the bonds or notes to be authorized as to:

(a) The pledging or providing of a security interest in all or any part of the revenues of a facility or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or any other body, public or private, to secure the payment of the bonds or notes or of any particular issue of bonds, subject to such agreements with noteholders or bondholders as may then exist;

(b) The maintenance of properties covered thereby;

(c) The fixing and collection of mortgage payments, rents, fees, and other charges and the amounts to be raised in each year thereby and the use and disposition of the revenues;

(d) The setting aside, creating, and maintaining of special and reserve funds and sinking funds and the use and disposition of the revenues;

(e) The limitations on the right of the authority or its agent to restrict and regulate the use of the facilities;

(f) The limitations on the purpose to which the proceeds of sale of any issue of bonds or notes then or thereafter to be issued may be applied and the pledging or providing of a security interest in such proceeds to secure the payment of the bonds or notes or any issue of the bonds or notes;

(g) The limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(h) The procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated and the total amount of bonds or notes consented to by the holders thereof and the manner in which such consent may be given;

(i) The limitations on the amount of moneys derived from a facility to be expended for operating, administrative, or other expenses of the authority;

(j) The defining of the acts or omissions to act constituting a default in the duties of the authority to holders of its obligations and the providing of rights and remedies to such holders in the event of a default;

(k) The mortgaging of a facility and the site thereof for the purpose of securing the bondholders or noteholders;

(l) Such other additional covenants, agreements, and provisions as are judged advisable or necessary by the authority for the security of the holders of such bonds or notes.

(2) Any pledge made by the authority shall be valid and binding at the time the pledge is made and thereafter until satisfied. The revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort or contract or in any other form against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, lease, indenture, mortgage, and deed of trust made for the benefit or security of any of the bonds of the authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same were made has been fully paid or provision for such payment has been duly made. In the event of default in such payment or in any agreements of the authority made as a part of the contract under which the bonds were issued, whether contained in the resolutions authorizing the bonds or in any trust indenture, mortgage, or deed of trust executed as security therefor, said payment or agreement may be enforced by suit, action in the nature of mandamus, appointment of a receiver in equity, foreclosure of any mortgage or deed of trust, or any one or more of said remedies.

(3) In addition to the provisions of subsections (1) and (2) of this section, bonds of the authority may be secured by a pooling of leases, loans, or mortgages whereby the authority may assign its rights as lessor, lender, or mortgagee and pledge rents, loan payments, or mortgage payments under two or more leases, loans, or mortgages, with two or more

participating educational institutions or cultural institutions as lessees, borrowers, or mortgagors, respectively, upon such terms as may be provided for in the resolutions of the authority or as may be provided for in a trust indenture or mortgage or deed of trust authorized by the authority.

**Source:** L. 81: Entire article added, p. 1105, § 1, effective July 1. L. 89: (3) amended, p. 990, § 6, effective April 8. L. 98: (3) amended, p. 606, § 9, effective May 4.

**23-15-113. Personal liability.** Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

**Source:** L. 81: Entire article added, p. 1107, § 1, effective July 1.

**23-15-114. Purchase.** The authority may purchase its bonds or notes out of any funds available therefor. The authority may hold, pledge, cancel, or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders.

**Source:** L. 81: Entire article added, p. 1107, § 1, effective July 1.

**23-15-115. Procedure before expenditure of proceeds.** (1) Notwithstanding any other provisions of this article, the authority may not undertake any facility authorized by this article unless, prior to the expenditure of proceeds, the board finds that:

(a) Such facility will enable or assist an educational institution or a cultural institution to fulfill its obligation to provide facilities; and

(b) In the case of an educational institution, such facility has been reviewed and approved by the commission if such approval is required pursuant to section 23-1-106.

**Source:** L. 81: Entire article added, p. 1107, § 1, effective July 1. L. 84: Entire section amended, p. 637, § 3, effective April 5. L. 89: (1)(a) and (1)(b) amended, p. 991, § 7, effective April 8. L. 98: Entire section amended, p. 606, § 10, effective May 4.

**23-15-116. Trust agreement to secure bonds.** In the discretion of the authority, any bonds issued pursuant to this article may be secured by a trust agreement between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company in Colorado. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the facilities or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper, and not in violation of law, including particularly such provisions as have been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust agreement or resolution may be treated as a part of the cost of the operation of a facility.

**Source:** L. 81: Entire article added, p. 1107, § 1, effective July 1.

**23-15-117. Payment of bonds - nonliability of state.** Bonds and notes issued by the authority shall not constitute or become an indebtedness, a debt, or a liability of the state,



the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, and neither the state, the general assembly, nor any county, city, city and county, town, school district, or other political subdivision of the state shall be liable thereon; nor shall such bonds or notes constitute the giving, pledging, or loaning of the faith and credit of the state, the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, but such bonds or notes shall be payable solely from the funds provided for in this article. Unless by specific pledge in an act of issuance as authorized by law, the issuance of bonds or notes under the provisions of this article shall not obligate, directly, indirectly, or contingently, the state or any subdivision thereof nor empower the authority to levy or collect any form of taxes or assessments therefor or to create any indebtedness payable out of taxes or assessments therefor or make any appropriation for their payment, and such appropriation or levy is prohibited. Nothing in this section shall prevent or be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating educational institution or cultural institution to the payment of bonds or notes authorized pursuant to this article. Nothing in this article shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the authority to levy or collect taxes or assessments; and all bonds issued by the authority pursuant to the provisions of this article are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture, mortgage, or deed of trust executed as security therefor and are not a debt or liability of the state of Colorado. Unless by specific pledge in an act of issuance as authorized by law, the state shall not in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation, or agreement of any kind whatsoever which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation, or agreement shall otherwise impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

**Source:** **L. 81:** Entire article added, p. 1108, § 1, effective July 1. **L. 89:** Entire section amended, p. 991, § 8, effective April 8. **L. 98:** Entire section amended, p. 607, § 11, effective May 4. **L. 2008:** Entire section amended, p. 1066, § 12, effective May 22.

**23-15-118. Exemption from taxation and securities law.** The authority is hereby declared to be a public instrumentality of the state, performing a public function for the benefit of the people of the state for the improvement of their welfare and educational and cultural opportunities. Accordingly, the income or other revenues of the authority, all properties at any time owned by the authority, any bonds, notes, or other obligations issued pursuant to this article and the transfer thereof and the income therefrom (including any profit made on the sale thereof), and all mortgages, leases, trust indentures, and other documents issued in connection therewith shall be exempt at all times from all taxation and assessments in the state of Colorado. Bonds issued by the authority shall also be exempt from the “Colorado Securities Act”, article 51 of title 11, C.R.S.

**Source:** **L. 81:** Entire article added, p. 1108, § 1, effective July 1. **L. 89:** Entire section amended, p. 992, § 9, effective April 8. **L. 90:** Entire section amended, p. 740, § 5, effective July 1. **L. 98:** Entire section amended, p. 607, § 12, effective May 4.

**23-15-119. Rents and charges.** A sufficient amount of the revenues derived with respect to a facility, except such part of such revenues as may be necessary to pay the cost of maintenance, repair, and operation and to provide reserves and for renewals, replacements, extensions, enlargements, and improvements provided for in the resolution authorizing the issuance of any bonds or notes of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution

or trust agreement in a sinking or other similar fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds or notes as the same become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding at the time the pledge is made and thereafter until satisfied, and the rates, rents, fees, charges, and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort or contract or in any other form against the authority, irrespective of whether such parties have notice thereof. Neither the bond resolution, any trust agreement, any other agreement, nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the resolution authorizing the issuance of such bonds or notes or to such trust agreement. Except as may be otherwise provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all such bonds or notes issued to finance facilities at a particular educational institution or cultural institution without distinction or priority of one over another; except that the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular facility at an educational institution or a cultural institution and for the bonds issued to finance a particular facility and, additionally, may permit and provide for the issuance of bonds having a lien with respect to the security authorized which is subordinate to other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds with respect to such subordinate lien bonds.

**Source:** **L. 81:** Entire article added, p. 1109, § 1, effective July 1. **L. 89:** Entire section amended, p. 992, § 10, effective April 8. **L. 98:** Entire section amended, p. 608, § 13, effective May 4.

**23-15-120. Fees.** (1) All expenses of the authority incurred in carrying out the provisions of this article shall be payable solely from funds provided pursuant to this article, and no liability shall be incurred by the authority beyond the moneys which are provided pursuant to this article; except that, for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives moneys from funds provided pursuant to this article, the authority may borrow such moneys as may be required for the necessary expenses of organization and operation. Such borrowed moneys shall be repaid within a reasonable time after the authority receives funds provided pursuant to this article.

(2) Nothing in this article shall be construed to imply mandatory participation by an educational institution or a cultural institution. An initial planning service fee in an amount determined by the authority shall be paid to the authority by each participating educational institution or cultural institution that applies for financial assistance to provide for its facilities. Such initial planning service fees shall be included in the cost of the facilities to be financed and shall not be refundable by the authority, whether or not any such application is approved or, if approved, whether or not such financial assistance is accomplished. In addition to such initial fee, an annual planning service fee shall be paid to the authority by each participating educational institution or cultural institution in an amount determined by the authority. Such fees shall be paid on said dates or in such installments as may be satisfactory to the authority. Such fees may be used for:

- (a) Necessary expenses to determine the need for facilities;
- (b) Necessary administrative expenses; and
- (c) Reserves for anticipated future expenses.

(3) In addition, the authority may retain, for a negotiated fee, the services of any other public or private person, firm, partnership, association, or corporation for the furnishing of services and data for use by the authority in determining the need and location of any such facilities for which application is being made or for such other services or surveys as the authority deems necessary to carry out the purposes of this article.



(4) The authority may charge a reasonable fee to cover expenses incurred by the authority in connection with the review of an application by an issuer other than the authority for designation of bonds or certificates as Colorado education savings bonds or certificates pursuant to section 23-15-110.5. Such fee may also be used to cover a portion of the cost to the authority of administering the program.

**Source:** **L. 81:** Entire article added, p. 1109, § 1, effective July 1. **L. 89:** IP(2) amended, p. 993, § 11, effective April 8; (4) added, p. 984, § 5, effective April 12. **L. 98:** IP(2) amended, p. 608, § 14, effective May 4.

**23-15-121. Conveyance of title - release of lien.** When the principal of and interest on bonds issued by the authority to finance the cost of facilities or to refinance the outstanding indebtedness of one or more participating educational institutions or cultural institutions, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire the same and when all other conditions of the resolution, the lease, the trust indenture, and the mortgage, deed of trust, or other form of security arrangement, if any, authorizing and securing the same have been satisfied, the authority shall promptly do all things and execute such deeds, conveyances, and other documents as are necessary and required to release the lien of such mortgage, deed of trust, or other form of security arrangement in accordance with the provisions thereof and to convey its right, title, and interest in such facilities so financed, and any other facilities leased or mortgaged or subject to a deed of trust or any other form of security arrangement to secure the bonds, to such participating educational institution or cultural institution.

**Source:** **L. 81:** Entire article added, p. 1110, § 1, effective July 1. **L. 89:** Entire section amended, p. 993, § 12, effective April 8. **L. 98:** Entire section amended, p. 609, § 15, effective May 4.

**23-15-122. Investment of funds.** The authority may invest the proceeds from the sale of a series of bonds or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of this state, as may be provided in the proceedings under which the series of bonds are authorized to be issued, including but not limited to the following: Bonds or other obligations of the United States; bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States; obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; obligations issued or guaranteed by any state of the United States or any political subdivision of any such state; prime commercial paper; prime finance company paper; bankers' acceptances drawn on and accepted by commercial banks; repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the congress of the United States; or certificates of deposit or time deposits issued by commercial banks or savings and loan associations that are insured by the federal deposit insurance corporation or its successor. The authority may invest any other funds in the securities as provided in this section and with such maturities as the authority shall determine if such maturities are on a date or dates prior to the time that, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time that any funds will be required for expenditure or be redeemable is final and conclusive.

**Source:** **L. 81:** Entire article added, p. 1110, § 1, effective July 1. **L. 83:** Entire section R&RE, p. 805, § 5, effective May 25. **L. 2004:** Entire section amended, p. 153, § 66, effective July 1.

**23-15-123. Proceeds as trust funds.** All moneys received pursuant to this article, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, shall be deemed to be trust funds to be held and applied solely as provided in this article. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article, subject to such regulations as this article and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing such obligations shall provide.

**Source: L. 81:** Entire article added, p. 1111, § 1, effective July 1.

**23-15-124. Agreement of the state not to limit or alter rights of obligees.** The state hereby pledges to and agrees with the holders of any bonds, notes, or other obligations issued pursuant to this article and with those parties who may enter into contracts with the authority pursuant to the provisions of this article that the state will not limit, alter, restrict, or impair the rights vested pursuant to this article in the authority to acquire, construct, reconstruct, maintain, and operate any facility or to establish, revise, charge, and collect rates, rents, fees, and other charges whenever it may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds, notes, or other obligations authorized and issued pursuant to this article and with the parties who may enter into contracts with the authority pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of the holders of such bonds, notes, or other obligations of such parties until such bonds, notes, or other obligations, together with interest thereon, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged and such contracts are fully performed on the part of the authority. Nothing in this article precludes such limitation or alteration if and when adequate provision is made by law for the protection of the holders of such bonds, notes, or other obligations of the authority or those entering into such contracts with the authority. The authority may include this pledge and undertaking for the state in such bonds, notes, or other obligations and in such contracts.

**Source: L. 81:** Entire article added, p. 1111, § 1, effective July 1.

**23-15-125. Enforcement of rights of bondholders.** Any holder of bonds issued pursuant to this article or a trustee under a trust agreement, trust indenture, indenture of mortgage, or deed of trust entered into pursuant to this article, except to the extent that his rights are restricted by any bond resolution, may protect and enforce, by any suitable form of legal proceedings, any rights under the laws of this state or granted by the bond resolution. Such rights include the right to compel the performance of all duties of the authority required by this article or the bond resolution; to enjoin unlawful activities; and, in the event of default with respect to the payment of the principal of and premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the facility, the revenues of which are pledged to the payment of the principal of and premium, if any, and interest on such bonds, with full power to pay, and to provide for the payment of the principal of and premium, if any, and interest on such bonds, with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, but excluding any power to pledge additional revenues of the authority to the payment of such principal, premium, and interest.

**Source: L. 81:** Entire article added, p. 1111, § 1, effective July 1.

**23-15-126. Bonds eligible for investment.** All banks, bankers, trust companies, savings and loan associations, investment companies, and insurance companies and associa-



tions and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued pursuant to this article. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

**Source:** **L. 81:** Entire article added, p. 1112, § 1, effective July 1. **L. 89:** Entire section amended, p. 1128, § 60, effective July 1.

**23-15-127. Account of activities and receipts for expenditures - report - audit.** The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually, in the month of January, make a report thereof to its members and to the state auditor, such reports to be in a form prescribed by the state auditor. Also included in the report shall be any recommendations with reference to additional legislation or other action that may be necessary to carry out the purpose of the authority. The state auditor may investigate the affairs of the authority, may severally examine the properties and records of the authority, and may prescribe methods of accounting and the rendering of periodical reports in relation to facilities undertaken by the authority.

**Source:** **L. 81:** Entire article added, p. 1112, § 1, effective July 1. **L. 83:** Entire section amended, p. 806, § 6, effective May 25. **L. 96:** Entire section amended, p. 1239, § 92, effective August 7. **L. 99:** Entire section amended, p. 851, § 10, effective May 24.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-15-128. Federal social security act.** The authority may take such action as it deems appropriate to enable its employees to come within the provisions and obtain the benefits of the federal "Social Security Act", as amended.

**Source:** **L. 81:** Entire article added, p. 1112, § 1, effective July 1.

**23-15-129. Powers of authority not restricted - law complete in itself.** This article shall not be construed as a restriction or limitation upon any powers which the authority might otherwise have under any laws of this state but shall be construed as cumulative of any such powers. No proceedings, referendum, notice, or approval shall be required for the creation of the authority or the issuance of any bonds or any instrument as security therefor unless so provided in this article; but nothing in this article shall be construed to deprive the state and its political subdivisions of their respective police powers over properties of the authority or to impair any power thereover of any official or agency of the state and its political subdivisions which may be otherwise provided by law.

**Source:** **L. 81:** Entire article added, p. 1112, § 1, effective July 1.

**23-15-130. Powers in addition to those granted by other laws.** The powers conferred by this article are in addition and supplementary to, and the limitations imposed by this article do not affect the powers conferred by, any other law, except as provided in this article. Facilities may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, and bonds may be issued pursuant to this article for said purposes, notwithstanding that any other provision of law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, and extensions of like facilities or the issuance of bonds for like purposes; and such bonds may be issued without regard to the requirements, restrictions, limitations, or other provisions contained in any other provision of law.

**Source:** **L. 81:** Entire article added, p. 1112, § 1, effective July 1.

23-15-131. Annual report. (Repealed)

Source: L. 81: Entire article added, p. 1113, § 1, effective July 1. L. 83: Entire section repealed, p. 806, § 7, effective May 25.

ARTICLE 16

Limitation on Athlete Agents

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- Repeal of part. (Repealed)

PART 1

CONTRACTS AND INTERVIEWS

23-16-101. **Legislative declaration.** The general assembly hereby finds that dishonest or unscrupulous practices by athlete agents who solicit representation of student athletes can cause significant harm to student athletes and to the institutions of higher education for which they play. It is the general assembly's intent to protect the interests of student athletes and institutions of higher education by limiting the contacts between athlete agents and student athletes and by setting requirements for contracts entered into between athlete agents and student athletes.

Source: L. 96: Entire article added, p. 1487, § 1, effective July 1.

23-16-102. **Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Agent contract" means any contract or agreement in which a student athlete authorizes or empowers, or agrees to authorize or empower at some later date, an athlete agent to negotiate or solicit any professional sport services contract or marketing endorse-



ment contract on behalf of the student athlete regardless of whether the athlete agent is entitled to compensation under the contract or agreement.

(2) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation.

(3) Repealed.

(4) "Governing board" means the governing body of a state-supported institution of higher education.

(5) "Institution" means any state-supported institution of higher education operating in this state and any nonpublic institution of higher education, as defined in section 23-3.7-102 (3), operating in this state.

(6) "Student athlete" means any individual who is enrolled as a student at an institution and has either submitted a written letter of intent to or is eligible to and does participate in any intercollegiate sporting event, contest, exhibition, or program.

**Source:** L. 96: Entire article added, p. 1487, § 1, effective July 1. L. 2008: IP amended, p. 1015, § 2, effective July 1. L. 2010: (3) repealed, (HB 10-1422), ch. 419, p. 2080, § 53, effective August 11.

### **23-16-103. Contact with student athletes prohibited. (Repealed)**

**Source:** L. 96: Entire article added, p. 1488, § 1, effective July 1. L. 2008: Entire section repealed, p. 1015, § 3, effective July 1.

**23-16-104. Agent contracts - contents - notice - termination.** (1) In addition to the requirements specified in section 23-16-209 for contracts with athlete agents, any agent contract entered into between an athlete agent and a student athlete shall also include:

(a) and (b) (Deleted by amendment, L. 2008, p. 1015, § 4, effective July 1, 2008.)

(c) Any guarantees provided by the athlete agent to the student athlete;

(d) In addition to the warning required to be given to the student athlete as specified in section 23-16-209 (c), the following statement in at least ten-point type that is bold-faced, capitalized, underlined, or otherwise conspicuously set out from surrounding written material:

#### **WARNING TO STUDENT ATHLETE:**

**DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES. DO NOT SIGN THIS CONTRACT IF IT DOES NOT SPECIFY ALL OF THE GUARANTEES MADE TO YOU BY THE ATHLETE AGENT. IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE CONTRACT WITHIN FOURTEEN DAYS AFTER THE DATE ON WHICH YOU SIGN THIS CONTRACT.**

(2) to (4) (Deleted by amendment, L. 2008, p. 1015, § 4, effective July 1, 2008.)

**Source:** L. 96: Entire article added, p. 1488, § 1, effective July 1. L. 2008: Entire section amended, p. 1015, § 4, effective July 1.

**23-16-105. Exceptions - written materials - student-initiated contacts. (Repealed)**

**Source:** L. 96: Entire article added, p. 1490, § 1, effective July 1. L. 2008: Entire section repealed, p. 1016, § 5, effective July 1.

**23-16-106. Athlete agent interviews - scheduling - rules.** Each institution that participates in intercollegiate athletics may sponsor on-campus athlete agent interviews at which an athlete agent may interview student athletes to discuss the athlete agent's representation of the student athletes in the marketing of the student athletes' athletic ability or reputation. The governing board of the institution or the institution may adopt rules with regard to the scheduling of interview periods, the duration of each interview period, and locations on campus where interviews may be conducted.

**Source:** L. 96: Entire article added, p. 1490, § 1, effective July 1.

**23-16-107. Compliance coordinator - duties.** (1) Each institution or governing board shall designate an individual to serve as compliance coordinator for the institution or for each institution under the governing board's management. The compliance coordinator shall ensure the compliance of the institution and its athletes and students with the provisions of this part 1 and the rules adopted by the governing board or institution.

(2) If an institution chooses to sponsor on-campus athlete agent interviews as provided in section 23-16-106, the compliance coordinator shall organize the athlete interview schedule. The compliance coordinator shall provide appropriate public notice of the interview period at least thirty days before the date the interview period is scheduled to begin. On receipt of a written request, the compliance coordinator shall provide an athlete agent with a copy of the rules adopted by the governing board or institution pursuant to section 23-16-106.

**Source:** L. 96: Entire article added, p. 1490, § 1, effective July 1. L. 2008: (1) amended, p. 1017, § 6, effective July 1.

**23-16-108. Violations - penalties - civil suit. (Repealed)**

**Source:** L. 96: Entire article added, p. 1490, § 1, effective July 1. L. 2008: Entire section repealed, p. 1017, § 7, effective July 1.

**PART 2****UNIFORM ATHLETE AGENTS ACT**

**23-16-201. Short title.** This part 2 may be cited as the "Uniform Athlete Agents Act".

**Source:** L. 2008: Entire part added, p. 1002, § 1, effective July 1.

**23-16-202. Definitions.** In this part 2:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional-sports-services contract or an endorsement contract.

(2) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately



administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) “Contact” means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.

(5) Repealed.

(6) “Endorsement contract” means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(7) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.

(8) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; a governmental subdivision, agency, or instrumentality; a public corporation; or any other legal or commercial entity.

(9) “Professional-sports-services contract” means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(10) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) Repealed.

(12) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) “Student athlete” means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

**Source: L. 2008:** Entire part added, p. 1002, § 1, effective July 1. **L. 2010:** (5) and (11) repealed, (HB 10-1128), ch. 172, p. 617, § 17, effective April 29.

**23-16-203. Service of process - subpoenas.** (a) At all times while acting as an athlete agent in this state, a nonresident individual shall continuously maintain in this state a registered agent. The registered agent shall be:

(1) An individual who is eighteen years of age or older and whose primary residence or usual place of business is in this state;

(2) A domestic entity having a usual place of business in this state; or

(3) A foreign entity authorized to transact business or conduct activities in this state that has a usual place of business in this state.

(b) The registered agent of the nonresident individual is an agent of the individual authorized to receive service of any process, notice, or demand required or permitted by law to be served on the individual in any civil action in this state related to an individual acting as an athlete agent.

(c) If a nonresident individual acting as an athlete agent in this state who is required to maintain a registered agent pursuant to this part 2 has no registered agent, or if the registered agent is not located under its registered agent name at its registered agent address, or if the registered agent cannot with reasonable diligence be served, the nonresident individual acting as an athlete agent in this state may be served by registered mail or by certified mail, return receipt requested, addressed to the nonresident athlete agent at his or her principal office address. Service is perfected under this subsection (c) at the earliest of:

(1) The date the nonresident athlete agent receives the process, notice, or demand;

(2) The date shown on the return receipt, if signed on behalf of the nonresident athlete agent; or

(3) Five days after mailing.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a nonresident athlete agent in this state.

**Source: L. 2008:** Entire part added, p. 1004, § 1, effective July 1.

**23-16-204. Athlete agents - registration required - void contracts. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1004, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 617, § 18, effective April 29.

**23-16-205. Registration as athlete agent - form - requirements. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1005, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 618, § 19, effective April 29.

**23-16-206. Certificate of registration - issuance or denial - renewal. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1006, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 619, § 20, effective April 29.

**23-16-207. Suspension, revocation, or refusal to renew registration - disciplinary action against registration - cease-and-desist orders - immunity. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1007, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 620, § 21, effective April 29.

**23-16-208. Registration and renewal fees. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1010, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 623, § 22, effective April 29.

**23-16-209. Required form of contract.** (a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) The name of any person who will be compensated because the student athlete signed the agency contract;

(3) A description of any expenses that the student athlete agrees to reimburse;

(4) A description of the services to be provided to the student athlete;

(5) The duration of the contract;

(6) The date of execution; and

(7) The requirements for contracts with student athletes as specified in section 23-16-104.

(c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating:

**WARNING TO STUDENT ATHLETE  
IF YOU SIGN THIS CONTRACT:**

**(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT  
ATHLETE IN YOUR SPORT;**



**(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND**

**(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

(d) An agency contract that does not conform to this section is voidable by the student athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.

**Source: L. 2008:** Entire part added, p. 1010, § 1, effective July 1. **L. 2010:** (b)(2) amended, (HB 10-1128), ch. 172, p. 623, § 23, effective April 29.

**23-16-210. Notice to educational institution.** (a) Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that he or she has entered into an agency contract.

**Source: L. 2008:** Entire part added, p. 1012, § 1, effective July 1.

**23-16-211. Student athlete's right to cancel.** (a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed.

(b) A student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

**Source: L. 2008:** Entire part added, p. 1012, § 1, effective July 1.

**23-16-212. Required records.** (a) An athlete agent shall retain the following records for a period of five years:

- (1) The name and address of each individual represented by the athlete agent;
- (2) Any agency contract entered into by the athlete agent; and
- (3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(b) Repealed.

**Source: L. 2008:** Entire part added, p. 1012, § 1, effective July 1. **L. 2010:** (b) repealed, (HB 10-1128), ch. 172, p. 623, § 24, effective April 29.

**23-16-213. Prohibited conduct.** (a) An athlete agent, with the intent to induce a student athlete to enter into an agency contract, may not:

- (1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student athlete or another athlete agent.

(b) An athlete agent may not intentionally:

(1) (Deleted by amendment, L. 2010, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29, 2010.)

(2) Refuse or fail to retain or permit inspection of the records required to be retained by section 23-16-212;

(3) and (4) (Deleted by amendment, L. 2010, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29, 2010.)

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

**Source:** L. 2008: Entire part added, p. 1012, § 1, effective July 1. L. 2010: (a)(3), (b)(1), (b)(3), and (b)(4) amended, (HB 10-1128), ch. 172, p. 623, § 25, effective April 29.

**23-16-214. Criminal penalties.** An athlete agent who violates section 23-16-213 is guilty of a class 2 misdemeanor, as provided in section 18-1.3-501, C.R.S., for a first offense and is guilty of a class 6 felony, as provided in section 18-1.3-401, C.R.S., for a second or subsequent offense.

**Source:** L. 2008: Entire part added, p. 1013, § 1, effective July 1.

**23-16-215. Civil remedies - temporary restraining orders - injunctions.** (a) An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this part 2. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(b) Damages of an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student athlete, the educational institution was injured by a violation of this part 2 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.

(e) This part 2 does not restrict rights, remedies, or defenses of any person under law or equity.

(f) The attorney general or the district attorney of the judicial district in which the educational institution is located, on receipt of a complaint or on his or her initiative, may investigate any alleged violation of this part 2. Following an investigation, if the attorney general or district attorney has reasonable cause to believe that any individual has violated or is violating any provision of this part 2, the attorney general or district attorney may bring an action to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain or prevent the violation. If the attorney general or district attorney shows, by a preponderance of the evidence, that an individual has violated or is violating any provision of this part 2, the court may issue a temporary restraining order, preliminary injunction, or permanent injunction to restrain or prevent the violation. No action may be brought by the attorney general or the district attorney under this section more than four years after the occurrence of the violation.



**Source: L. 2008:** Entire part added, p. 1013, § 1, effective July 1.

**23-16-216. Civil penalty.** On motion of the attorney general or the district attorney, the court may impose a civil penalty of not more than twenty-five thousand dollars for a violation of this part 2. Moneys collected under this section shall be transmitted to the state treasurer and credited to the general fund.

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1.

**23-16-217. Uniformity of application and construction.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1.

**23-16-218. Electronic signatures in global and national commerce act.** The provisions of this part 2 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of section 102 of the “Electronic Signatures in Global and National Commerce Act”, Pub.L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the “Electronic Signatures in Global and National Commerce Act”.

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1.

**23-16-219. Severability.** If any provision of this part 2 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part 2 that can be given effect without the invalid provision or application, and to this end, the provisions of this part 2 are severable.

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1.

#### **23-16-220. Rules. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 624, § 26, effective April 29.

#### **23-16-221. Repeal of part. (Repealed)**

**Source: L. 2008:** Entire part added, p. 1014, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1128), ch. 172, p. 624, § 27, effective April 29.

### **ARTICLE 17**

#### **Colorado High Technology Scholarship Program**

#### **23-17-101 to 23-17-106. (Repealed)**

**Source: L. 2010:** Entire article repealed, (HB 10-1256). ch. 133, p. 440, § 1, effective August 11.

**Editor’s note:** (1) This article was added in 2000. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Prior to the repeal of this article by House Bill 10-1256 on August 11, 2010, § 23-17-105 (5)(a) provided for the repeal of § 23-17-105, effective July 1, 2010.

## ARTICLE 18

### College Opportunity Fund

**Cross references:** For the legislative declaration contained in the 2004 act enacting this article, see section 1 of chapter 215, Session Laws of Colorado 2004.

#### PART 1

##### GENERAL PROVISIONS

23-18-101.	Short title.	23-18-203.	propriations - payment of stipends - reimbursement - repeal.
23-18-102.	Definitions.	23-18-204.	College opportunity fund - data retention.
		23-18-205.	College opportunity fund - advertisement - disclosure.
		23-18-206.	College opportunity fund - information - notification.
		23-18-207.	College opportunity fund - directive.
23-18-201.	College opportunity fund program - creation - eligibility - guidelines.	23-18-208.	College opportunity fund - legislative declaration - commission report.
23-18-202.	College opportunity fund - ap-		Advance - cash-flow management.

#### PART 1

##### GENERAL PROVISIONS

**23-18-101. Short title.** This article shall be known and may be cited as the “College Opportunity Fund Act”.

**Source: L. 2004:** Entire article added, p. 703, § 2, effective July 1.

**23-18-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) “College opportunity fund” or “fund” means the college opportunity fund created in section 23-18-202.

(2) “College opportunity fund program” or “program” means the college opportunity fund program created in the department of higher education pursuant to section 23-18-201 (1).

(3) “Commission” means the Colorado commission on higher education established pursuant to section 23-1-102.

(4) “Department” means the Colorado department of higher education established pursuant to section 24-1-114, C.R.S.

(5) (a) “Eligible undergraduate student” means:

(I) A student who is enrolled at a state institution of higher education and who is classified as an in-state student for tuition purposes; or

(II) A student who is enrolled at a participating private institution of higher education and who:

(A) Is classified as an in-state student for tuition purposes;

(B) Is a graduate of a Colorado high school or has successfully completed a nonpublic home-based educational program as provided in section 22-33-104.5, C.R.S.;

(C) Demonstrates financial need through the student’s eligibility for the federal Pell grant, or its successor program;

(C.5) Is not pursuing a professional degree in theology; and

(D) Meets any other eligibility requirements established by the commission.

(b) (Deleted by amendment, L. 2005, p. 1011, § 1, effective June 2, 2005.)



(c) Notwithstanding the provisions of paragraph (a) of this subsection (5), a student shall not be considered an “eligible undergraduate student” during the first year the student attends a Colorado institution of higher education if the student receives status as an in-state student for tuition purposes pursuant to section 23-7-111.

(6) “Governing board” means the governing body of a state institution of higher education.

(7) “Institution of higher education” means a participating private institution of higher education or a state institution of higher education.

(8) “Participating private institution of higher education” means a private institution of higher education that enters into a performance contract with the department pursuant to section 23-5-129 and agrees to participate in the program.

(9) “Private institution of higher education” means a not-for-profit college or university that maintains its primary place of business in the state of Colorado, that offers general baccalaureate degrees in arts and sciences, and that is institutionally accredited on the basis of an on-site review in Colorado by one of the six nationally recognized regional accrediting associations or by an accrediting agency determined by the commission to be appropriate to its educational purposes and programs.

(9.5) “Professional degree in theology” means a certificate signifying a person’s graduation from a degree program that is:

(a) Devotional in nature or designed to induce religious faith; and

(b) Offered by an institution as preparation for a career in the clergy.

(10) (a) “State institution of higher education” means a public postsecondary institution that is governed by:

(I) The board of governors of the Colorado state university system;

(II) The board of regents of the university of Colorado;

(III) The board of trustees of the Colorado school of mines;

(IV) The board of trustees of the university of northern Colorado;

(V) The board of trustees of Adams state university;

(VI) The board of trustees of Western state Colorado university;

(VII) The board of trustees of Colorado Mesa university;

(VIII) The board of trustees for Fort Lewis college;

(IX) The board of trustees for Metropolitan state university of Denver; or

(X) The state board for community colleges and occupational education.

(b) “State institution of higher education” does not include a junior college that is part of a junior college district organized pursuant to article 71 of this title, which districts shall continue to be eligible for direct grant funding from the general assembly pursuant to section 23-71-301.

(11) “Stipend” means the amount of money per credit hour specified pursuant to section 23-18-202 (2) (b) held in trust for and paid on behalf of an eligible undergraduate student pursuant to section 23-18-202 (5). “Stipend” shall also include payment on behalf of an eligible undergraduate student for a part of a credit hour.

(12) “Student’s share of in-state tuition” means the amount of total in-state tuition, less any amount paid on behalf of the student as a stipend.

(13) “Total in-state tuition” means the total amount of tuition that is paid to a state institution of higher education by or on behalf of a student who is eligible to pay in-state tuition, including but not limited to the amount of the stipend paid on behalf of the student.

**Source:** **L. 2004:** Entire article added, p. 703, § 2, effective July 1. **L. 2005:** (5)(b) and (11) amended, p. 1011, § 1, effective June 2. **L. 2009:** (5)(a)(II)(C) and (9) amended and (5)(a)(II)(C.5) and (9.5) added, (HB 09-1267), ch. 348, p. 1825, § 8, 9, effective June 1; (5)(c) added, (HB 09-1063), ch. 228, p. 1040, § 3, effective August 5. **L. 2011:** (10)(a)(VII) amended, (SB 11-265), ch. 292, p. 1368, § 24, effective August 10. **L. 2012:** (10)(a)(V) amended, (HB 12-1080), ch. 189, p. 760, § 19, effective May 19; (10)(a)(IX) amended, (SB 12-148), ch. 125, p. 427, § 15, effective July 1; (10)(a)(VI) amended, (HB 12-1331), ch. 254, p. 1271, § 18, effective August 1.

**Cross references:** For the legislative declaration contained in the 2009 act amending subsections (5)(a)(II)(C) and (9) and adding subsections (5)(a)(II)(C.5) and (9.5), see section 1 of chapter 348, Session Laws of Colorado 2009. For the legislative declaration contained in the 2009 act adding subsection (5)(c), see section 1 of chapter 228, Session Laws of Colorado 2009. For the legislative declaration in the 2011 act amending subsection (10)(a)(VII), see section 1 of chapter 292, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (10)(a)(IX), see section 1 of chapter 125, Session Laws of Colorado 2012.

## ANNOTATION

**Excluding students who attend a pervasively sectarian institution from state scholarships violates the first amendment of the**

**U.S. constitution.** Colo. Christian Univ. v. Weaver, 534 F.3d 1245 (10th Cir. 2008).

## PART 2

### COLLEGE OPPORTUNITY FUND PROGRAM

#### **23-18-201. College opportunity fund program - creation - eligibility - guidelines.**

(1) There is hereby created in the department of higher education the college opportunity fund program, which shall be administered by the Colorado student loan program. The college opportunity fund, created in section 23-18-202, shall be a trust fund for the benefit of eligible undergraduate students. It shall consist of a stipend for each undergraduate student in Colorado who applies for the stipend and who is admitted and registers to attend a state or participating private institution of higher education and is determined to be eligible by the Colorado student loan program to receive a stipend. An eligible undergraduate student may use the stipend for undergraduate courses and graduate-level courses that apply toward the student's undergraduate degree that are taken at a state or participating private institution of higher education at a fixed rate per credit hour, set annually by the general assembly.

(2) A student of a private institution of higher education shall be a beneficiary of the college opportunity fund and eligible to participate in the college opportunity fund program only if the private institution of higher education that the student attends has agreed to participate in the program by establishing a performance contract with the department pursuant to section 23-5-129. The department shall include each participating private institution of higher education and its students who participate in the college opportunity fund program in the student unit reporting data system, in order to enable the students of the participating private institution of higher education to participate in the program. The participating private institution of higher education shall reimburse the department for the actual expenses associated with including the institution in the student unit reporting data system.

(3) The Colorado student loan program, in consultation with the governing boards, shall adopt the necessary policies for the implementation of this part 2, which at a minimum shall include procedures for requesting funds for the program which adhere to commission budget guidelines and the annual budgeting cycle of the executive and legislative branches.

(4) The Colorado student loan program shall direct all state and participating private institutions of higher education to require resident undergraduate students to apply for the program. If a student is classified as an in-state student for tuition purposes at a state institution of higher education and does not apply for the program or is not eligible for the program, the student shall be responsible for paying the student's total in-state tuition amount.

**Source:** L. 2004: Entire article added, p. 706, § 2, effective July 1. L. 2005: (1) amended, p. 1011, § 2, effective June 2.

**23-18-202. College opportunity fund - appropriations - payment of stipends - reimbursement - repeal.** (1) (a) Beginning with the state fiscal year commencing July 1,



2005, and for each state fiscal year thereafter, the general assembly shall make an annual appropriation, in trust for eligible undergraduate students, to the college opportunity fund, which is hereby established as a trust fund account with the Colorado student loan program. Except as provided in paragraph (c) of this subsection (1), moneys appropriated to the college opportunity fund are for the sole purpose of disbursement on behalf of eligible undergraduate students in accordance with this part 2 and are not for the general operation or any other function of the Colorado student loan program. Any unexpended and unencumbered moneys remaining in the college opportunity fund at the end of a fiscal year are the property of the trust fund and shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The Colorado student loan program shall administer and disburse the funds in the college opportunity fund on behalf of eligible undergraduate students as provided in this part 2. Each institution of higher education may be required to pay an implementation fee and an ongoing disbursement fee, the amounts of which shall be determined by the Colorado student loan program but shall not exceed the actual cost of the implementation and ongoing disbursement; except that the fees may be required only if the department or the federal government takes action, including adopting rules, regulatory changes, or programmatic changes, that negatively affects the financial condition of the Colorado student loan program.

(II) Repealed.

(c) If there are moneys remaining in the college opportunity fund after the final census date of the last academic term of each state fiscal year, as determined in accordance with this section, up to three percent of the amount annually authorized as cash spending authority in the general appropriations act for a governing board to expend stipends received on behalf of eligible undergraduate students may be expended by the same governing board for postsecondary educational services purchased by the department if authorized through a fee-for-service contract entered into pursuant to sections 23-1-109.7 and 23-5-130. The department may transfer an equivalent amount in general fund spending authority from stipends to fee-for-service contracts to fulfill its fee-for-service contract obligations to a governing board pursuant to this paragraph (c) and section 23-5-130.

(2) (a) (I) For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the commission, in consultation with the governing boards and participating private institutions, shall annually estimate the number of undergraduate full-time equivalent students who are eligible for stipends under this part 2 at each state institution of higher education and each participating private institution of higher education. The commission shall annually report the numbers by February 15 to the governor and to the joint budget committee of the general assembly for inclusion in the annual general appropriations act.

(II) The general assembly reviewed the reporting requirements to the general assembly in subparagraph (I) of this paragraph (a) during the 2008 regular session and continued the requirements.

(b) For the state fiscal year commencing July 1, 2005, and for state fiscal years thereafter, for an eligible undergraduate student attending a state institution of higher education, the specified amount of the stipend per credit hour shall be an amount set annually by the general assembly, which in no case shall exceed the student's total in-state tuition. The value of the per credit hour stipend shall be the same for each eligible undergraduate student, regardless of the state institution of higher education that the student attends. The student shall be responsible for paying the student's share of total in-state tuition, if any.

(c) The commission shall forward to the general assembly and governor, by November 1 of each year, a list of institutions eligible to receive stipends on behalf of eligible undergraduate students under the program. The commission shall annually request that the general assembly adjust the amount appropriated to the Colorado student loan program for the stipends to reflect at least inflation and enrollment growth in the state institutions of higher education.

(d) Beginning with the state fiscal year commencing July 1, 2006, the commission, in consultation with the governing boards and any participating private institutions of higher education, shall review annually the amount of the stipend per credit hour established

pursuant to paragraph (b) of this subsection (2). Following the review, the commission, in consultation with the governing boards and participating private institutions, shall annually make recommendations regarding possible adjustments to the amount of the stipend per credit hour to the governor and the joint budget committee of the general assembly for consideration in preparing the annual general appropriations act.

(e) An eligible undergraduate student who attends a participating private institution of higher education may receive financial assistance under this part 2 in the amount of fifty percent of the stipend amount; except that the amount of the stipend under this paragraph (e) may increase in proportion to the percent of unfunded enrollment growth that is appropriated to the governing boards pursuant to section 23-5-129 (8).

(3) (a) For the state fiscal year commencing July 1, 2005, and for each state fiscal year thereafter, the general assembly shall appropriate spending authority to each governing board for the funds estimated to be received by an institution, under the direction and control of the governing board, as stipends, consistent with the provisions of section 23-1-104. The spending authority for the stipends estimated to be received shall be calculated by multiplying the amount of the applicable per-credit-hour stipend by the number of eligible student credit hours that are estimated to be attributable to each state institution of higher education under the direction and control of the governing board.

(b) (I) The tuition increases from which the general assembly derived the total cash spending authority for each governing board shall be noted in a footnote in the annual general appropriations act.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), for fiscal years 2011-12 through 2015-16, tuition increases shall not be noted in a footnote in the annual general appropriation act. Each governing board shall establish tuition in each of said fiscal years as provided in section 23-5-130.5. This subparagraph (II) is repealed, effective July 1, 2016.

(c) (I) For fiscal years 2011-12 through 2015-16, if a governing board submits a plan for authorization to increase undergraduate, resident tuition pursuant to section 23-5-130.5, the governing board shall specify the amount of institutional funds the governing board will allocate to need-based financial assistance.

(II) This paragraph (c) is repealed, effective July 1, 2016.

(4) (a) Regardless of when an institution receives moneys in the form of a stipend on behalf of a student, or if the stipend amount is reduced by the general assembly, a state institution of higher education shall not increase the student's share of in-state tuition to make up for an actual or effective reduction during the same fiscal year in the stipend amount from which the total in-state tuition amount was calculated or for issues relating to the timing of stipend payments.

(b) If moneys in the college opportunity fund in any fiscal year are not sufficient to pay the rate per credit hour established pursuant to paragraph (b) of subsection (2) of this section, then the Colorado student loan program shall reduce the amount of the stipend per credit hour for all students to match the available funds, subject to joint budget committee approval. This paragraph (b) shall not be construed to limit the department's ability to request an adjustment to, or the general assembly's ability to adjust, the amount of the stipend during the budget process.

(5) (a) (I) After an undergraduate student has applied for the program, been approved for the program, and enrolled in a state or participating private institution of higher education, the institution shall request that the Colorado student loan program make a stipend payment from the college opportunity fund to the institution on behalf of the eligible undergraduate student. A payment by the Colorado student loan program to an institution of higher education from the college opportunity fund shall not be subject to the assessment of a transaction fee pursuant to section 24-36-120, C.R.S. The stipend payment shall be paid to the institution upon receipt by the institution of the eligible undergraduate student's authorization. The amount of the stipend paid on behalf of an eligible undergraduate student shall be applied against the student's total in-state tuition.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, an institution, with a student's permission, may apply for the program on the



student's behalf using the information in the student's admission application after the student has been enrolled in the institution.

(b) The stipend paid by the Colorado student loan program on behalf of the eligible undergraduate student shall note on the student's receipt of payment from the state or private institution of higher education that the moneys came from the college opportunity fund.

(c) (I) An eligible undergraduate student shall not receive a stipend from the college opportunity fund for more than one hundred forty-five credit hours during the eligible undergraduate student's lifetime; except that:

(A) If an eligible undergraduate student has received stipend payments for one hundred forty-five credit hours and the student has received a bachelor's degree, the eligible undergraduate student is eligible to receive stipend payments for an additional thirty undergraduate credit hours; and

(B) For credit hours initiated on or after July 1, 2006, an eligible undergraduate student may receive stipend payments for basic skills courses, as defined in section 23-1-113 (11) (b), and courses taken pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, C.R.S. For a student who enrolls in a course at an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, C.R.S., the student loan division in the department shall record the student's uniquely identifying student number before submitting a stipend payment on behalf of the student. Stipend payments received for the basic skills courses specified in this sub-subparagraph (B) shall not apply to the lifetime limitation of one hundred forty-five credit hours.

(II) For an eligible undergraduate student who is enrolled as a continuing student at a state institution of higher education or a participating private institution of higher education as of July 1, 2005, the commission shall determine the number of credit hours for which the student may receive a stipend from the college opportunity fund, based on the number of credit hours the eligible undergraduate student has earned.

(III) For an eligible undergraduate student who has completed one or more college courses while enrolled in high school pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, C.R.S., or while designated by the department of education as an ASCENT program participant pursuant to section 22-35-108, C.R.S., all college-level credit hours earned by the student during such enrollment shall count against the lifetime limitation described in subparagraph (I) of this paragraph (c); except that credit hours earned from enrollment in a basic skills course, as defined in section 23-1-113 (11) (b), shall not count against the lifetime limitation.

(d) (I) An eligible undergraduate student and an institution of higher education shall not receive the payment of a stipend on behalf of an eligible undergraduate student for:

(A) to (C) Repealed.

(D) International baccalaureate courses;

(E) Advanced placement courses;

(F) Off-campus, extended campus, or continuing education classes that are not supported by state general fund moneys, except as approved by the commission, and, on or after July 1, 2007, except for classes or programs offered by an institution of higher education that has entered into a performance contract with the department pursuant to section 23-5-129, and that an eligible undergraduate student who is a member of the armed forces or a dependent of a member of the armed forces attends for credit on a military base; or

(G) Classes offered by an institution of higher education that was established after July 1, 2007.

(II) and (III) Repealed.

(e) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5), an eligible undergraduate student may apply to the commission for a waiver of the limitation. The commission may grant a waiver of the lifetime-credit-hour limitation if it finds:

(I) That extenuating circumstances exist related to the student's health or physical ability to complete the degree program within the lifetime-credit-hour limit;

(II) That the degree program, as approved by the commission, requires more than one hundred twenty hours to complete;

(III) That, while the eligible undergraduate student was enrolled in a specific degree program, the commission approved and the institution implemented an alteration of degree requirements or standards for the specific degree; or

(IV) That requiring the eligible undergraduate student to pay the full amount of total in-state tuition for credit hours that exceed the limitation would cause a substantial economic hardship on the student and the student's family.

(f) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5) and in addition to the provisions of paragraph (e) of this subsection (5), a state institution of higher education may annually grant a one-year waiver of the lifetime-credit-hour limitation for up to five percent of the eligible undergraduate students enrolled in the state institution of higher education. In granting the waivers under this paragraph (f), the state institution of higher education shall, upon request, grant a waiver to an eligible undergraduate student for courses taken pursuant to the "Concurrent Enrollment Programs Act", article 35 of title 22, C.R.S. For any remaining portion of the institution's five percent of eligible undergraduate students who may receive waivers, the institution shall give priority to students who are seeking job retraining.

(6) If an eligible undergraduate student enrolls in a class for which the state or participating private institution of higher education receives a stipend payment pursuant to subsection (5) of this section and the eligible undergraduate student subsequently withdraws from the class on or prior to the final date on which the institution permits a student to withdraw without the payment of any amount of tuition, the institution shall reimburse the college opportunity fund for the proportional amount of the stipend received that conforms to the governing board's refund policy for the class from which the student withdrew. The credits for which the stipend is refunded shall not count against the eligible undergraduate student's lifetime-credit-hour limitation established pursuant to paragraph (c) of subsection (5) of this section.

(7) It is the intent of the general assembly that the amount of a stipend received by a state institution of higher education on behalf of an eligible undergraduate student pursuant to this part 2 shall not constitute a grant from the state of Colorado pursuant to section 20 (2) (d) of article X of the state constitution.

(8) It is the intent of the general assembly that nothing in this article preclude the general assembly at a future time from including a junior college that is part of a junior college district organized pursuant to article 71 of this title in the college opportunity fund program.

(9) It is the intent of the general assembly that the college opportunity fund and fee-for-service contracts authorized pursuant to section 23-5-130 be fully funded for enrollment growth.

**Source:** **L. 2004:** Entire article added, p. 706, § 2, effective July 1. **L. 2005:** (2)(a), (4), (5)(c), (5)(d), and (5)(f) amended and (9) added, p. 1012, § 3, effective June 2; (1)(b) amended, p. 1017, § 11, effective July 1, 2006. **L. 2006:** (1)(a) amended and (1)(c) added, p. 1280, § 1, effective May 26; (5)(d)(I)(F) amended and (5)(d)(III) added, p. 1778, § 2, effective June 6. **L. 2008:** (3)(a) amended, p. 274, § 2, effective March 31; (1)(b)(I) amended, p. 208, § 9, effective August 5; (2)(a) amended, p. 1268, § 3, effective August 5. **L. 2009:** (5)(d)(I)(E) and (5)(d)(I)(F) amended and (5)(d)(I)(G) added, (SB 09-086), ch. 14, p. 83, § 2, effective March 18; (5)(c)(I)(B) and (5)(f) amended and (5)(c)(III) added, (HB 09-1319), ch. 286, p. 1321, § 11, effective May 21. **L. 2010:** (5)(a) amended, (SB 10-064), ch. 288, p. 1342, § 2, effective May 26; (3)(b) and (3)(c) amended, (SB 10-003), ch. 391, p. 1842, § 7, effective June 9. **L. 2012:** (5)(c)(I)(B) and (5)(c)(III) amended, (HB 12-1155), ch. 255, p. 1279, § 4, effective August 8.

**Editor's note:** (1) Subsections (5)(d)(I)(A), (5)(d)(I)(B), (5)(d)(I)(C), and (5)(d)(II)(B) provided for the repeal of subsections (5)(d)(I)(A), (5)(d)(I)(B), (5)(d)(I)(C), and (5)(d)(II), respectively, effective July 1, 2006. (See L. 2005, p. 1012.)



(2) Subsection (1)(b)(II)(B) provided for the repeal of subsection (1)(b)(II), effective July 1, 2007. (See L. 2005, p. 1017.) Subsection (5)(d)(III)(B) provided for the repeal of subsection (5)(d)(III), effective July 1, 2007. (See L. 2006, p. 1778.)

**Cross references:** For the legislative declaration in the 2010 act amending subsection (5)(a), see section 1 of chapter 288, Session Laws of Colorado 2010. For the legislative declaration in the 2010 act amending subsections (3)(b) and (3)(c), see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-18-203. College opportunity fund - data retention.** (1) The commission, in cooperation with the state and participating private institutions of higher education, shall maintain a record of the number of credit hours for which each eligible undergraduate student receives a stipend from the college opportunity fund. The commission shall also maintain any confidential information concerning eligible undergraduate students participating in the program.

(2) The commission, in consultation with the governing boards, shall determine by policy when to forward to each state and participating private institution of higher education a report on the number of credit hours accumulated by each eligible undergraduate student against the lifetime-credit-hour limitation established pursuant to section 23-18-202 (5) (c). Each institution shall make the information on the number of credit hours accumulated against the limitations available to the student upon request.

**Source: L. 2004:** Entire article added, p. 711, § 2, effective July 1.

**23-18-204. College opportunity fund - advertisement - disclosure.** If an institution of higher education advertises, in the form of direct mail, print, radio, television, or via the internet, a student's ability to receive a stipend from the college opportunity fund, the institution of higher education shall include in the advertisement the total cost of attending the institution, including a student's total tuition cost plus applicable fees.

**Source: L. 2004:** Entire article added, p. 711, § 2, effective July 1.

**23-18-205. College opportunity fund - information - notification.** (1) It is the intent of the general assembly that the department and the commission inform students beginning in the eighth grade of the state's financial commitment to students to assist them in continuing their education by attending college and of the additional financial resources that may be available to the students in order to further their education.

(2) (a) The commission shall work with the department of education to notify annually eighth-grade students of the state's contribution to the college opportunity fund on behalf of resident students and the manner in which the students may receive additional information regarding financial resources for higher education including but not limited to the amount of the stipend and a student's ability to use specific web sites to explore financial and academic options for preparing to enter college.

(b) The Colorado student loan program shall include information regarding the college opportunity fund on an internet web site to assist students in planning financially and academically to attend an institution of higher education in Colorado including but not limited to the current value of the stipend.

(3) On and after July 1, 2005, if the department and the commission advertise and publicize a specific stipend dollar amount, the dollar amount may not exceed the amount most recently set by the joint budget committee or adopted by the general assembly, and the advertisement or publication materials shall note that the stipend amount is subject to change by the general assembly.

**Source: L. 2004:** Entire article added, p. 711, § 2, effective July 1. **L. 2005:** (3) added, p. 1018, § 14, effective June 2.

**23-18-206. College opportunity fund - directive.** The Colorado student loan program and the state treasurer, in consultation with the governing boards, shall cooperatively establish a disbursement schedule for stipends awarded pursuant to this part 2.

**Source: L. 2004:** Entire article added, p. 711, § 2, effective July 1.

**23-18-207. College opportunity fund - legislative declaration - commission report.**  
(1) The general assembly finds that:

(a) No other state has tried to change the funding of institutions of higher education from the institution to the student as provided for in this part 2;

(b) Because this part 2 creates a new and untried program, it is anticipated that during the early years of its implementation, there may be some unanticipated effects requiring additional statutory changes.

(2) (a) Beginning July 1, 2006, and continuing through July 1, 2009, the commission shall submit to the education committees of the senate and house of representatives and to the joint budget committee of the general assembly annual reports on the status of the program established pursuant to this part 2. The annual reports may include, but are not limited to, recommended statutory changes.

(b) On or before July 1, 2010, the commission shall submit a final report to the education committees of the senate and house of representatives and to the joint budget committee of the general assembly on the implementation of the program established pursuant to this part 2.

**Source: L. 2004:** Entire article added, p. 712, § 2, effective July 1.

**23-18-208. Advance - cash-flow management.** Notwithstanding any provision of section 24-75-203 (1), C.R.S., to the contrary, the Colorado student loan program may authorize and, upon such authorization, the state treasurer shall make an advance without interest from the college opportunity fund to a governing board to assist the governing board in managing its cash flow. An advance made pursuant to this section shall be repaid within the same state fiscal year in which the advance is made.

**Source: L. 2005:** Entire section added, p. 1014, § 4, effective June 2.

## ARTICLE 19

### Nursing Faculty Fellowship Program

#### 23-19-101 to 23-19-104. (Repealed)

**Source: L. 2011:** Entire article repealed, (HB 11-1281), ch. 180, p. 688, § 10, effective May 19.

**Editor's note:** This article was added in 2006 and was not amended prior to its repeal in 2011. For the text of this article prior to 2011, consult the 2010 Colorado Revised Statutes.

## ARTICLE 19.5

### Colorado Higher Education Student Suicide Prevention Act

#### 23-19.5-101 to 23-19.5-105. (Repealed)

**Editor's note:** (1) This article was added in 2006. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table itemizing the



replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-19.5-105 (2) provided for the repeal of this article, effective July 1, 2010. (See L. 2006, p. 1621.)

## ARTICLE 19.7

### Higher Education Competitive Research Authority

23-19.7-101.	Legislative declaration.		research authority - powers and duties.
23-19.7-102.	Higher education competitive research authority - creation - board of directors.	23-19.7-104.	Innovative higher education research fund - funding - repeal.
23-19.7-103.	Higher education competitive		

**23-19.7-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) During the peer review process for awarding federally sponsored research projects, the federal government often requires project applicants to provide state matching moneys or gives preference to applicants that demonstrate an ability to provide such moneys.

(b) Colorado, unlike many other states, does not have a dedicated source of matching moneys for federally sponsored research projects.

(c) Federal requirements and preferences for state matching moneys disadvantage Colorado public universities when competing against universities in other states that can access dedicated sources of state matching moneys.

(d) It is therefore necessary and appropriate for the state to provide a dedicated source of matching moneys that will allow Colorado public universities to compete on equal footing with out-of-state universities when applying for federally sponsored research projects and to create an authority to oversee the use of the matching moneys.

**Source: L. 2007:** Entire article added, p. 1599, § 1, effective May 31.

**23-19.7-102. Higher education competitive research authority - creation - board of directors.** (1) The higher education competitive research authority, referred to in this article as the “authority”, is hereby created as a body corporate and a political subdivision of the state. The authority shall not be an agency of state government and, except as otherwise provided in this article, shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state.

(2) The powers of the authority shall be vested in a board of directors, referred to in this article as the “board”. The board shall consist of one member appointed by the governor with the consent of the senate and the following four ex officio members: The president of the university of Colorado, the president of Colorado state university, the president of the Colorado school of mines, and the president of the university of northern Colorado. The term of the appointed member of the board shall be four years, and the appointed member shall be eligible for reappointment. The appointed member shall hold office until a successor has been appointed and the senate has confirmed the appointment. A vacancy in the seat of the appointed board member occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. The appointed member may be removed from office by the governor for cause, after a public hearing, and may be suspended by the governor pending the completion of the hearing.

(3) The members of the board shall elect a chair and a vice-chair. The members of the board shall also elect a secretary and a treasurer, who need not be members of the board, and may elect the same person to serve as both secretary and treasurer. The powers of the board may be vested in the officers from time to time. Three members of the board shall constitute a quorum. A vacancy in the membership of the board shall not impair the right of a quorum of the members to exercise all powers and perform all duties of the board pursuant to section 23-19.7-103.

(4) Each member of the board not otherwise in full-time employment of the state shall receive per diem compensation in the amount of fifty dollars for each day actually and necessarily spent in the discharge of official duties, and all members shall receive traveling and other necessary expenses actually incurred in the performance of official duties.

**Source: L. 2007:** Entire article added, p. 1600, § 1, effective May 31.

**23-19.7-103. Higher education competitive research authority - powers and duties.**

(1) Except as otherwise limited by this article, the authority, acting through the board, has the power:

- (a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;
- (b) To sue and be sued;
- (c) To have an official seal and to alter the same at the board's pleasure;
- (d) To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- (e) To maintain an office at such place or places within the state as it may determine;
- (f) To acquire, hold, use, and dispose of its moneys;
- (g) To make and enter into all contracts, leases, and agreements that are necessary or incidental to the performance of its duties and the exercise of its powers under this article;
- (h) To deposit any moneys of the authority in any banking institution within or outside the state;
- (i) To fix the time and place or places at which its regular and special meetings are to be held;
- (j) To accept gifts, grants, and donations; and
- (k) To do all things necessary or convenient to carry out its purposes and exercise the powers granted in this article.

(2) The authority shall direct the allocation of moneys in the innovative higher education research fund created in section 23-19.7-104 to the extent required, as determined by the board, to provide matching funds for one or more proposals of public institutions of higher education in Colorado for federal research funding.

(3) Notwithstanding the provisions of section 24-1-136 (11) (a) (I), C.R.S., on or before March 1, 2008, and on or before March 1 of each year thereafter, the authority shall submit a report to the education committees of the house of representatives and the senate, or any successor committees, that describes the research projects that received funding under this article during the preceding calendar year. At a minimum, the report shall specify the following information with regard to each project:

- (a) A description of the project, the principal persons or entities involved in the project, and the amount of funding allocated to each principal person or entity;
- (b) The manner in which each principal person or entity applied the funding in connection with the project; and
- (c) The results achieved by the project.

**Source: L. 2007:** Entire article added, p. 1600, § 1, effective May 31.

**23-19.7-104. Innovative higher education research fund - funding - repeal.**

(1) There is hereby created in the state treasury the innovative higher education research fund, which shall consist of:

- (a) Moneys transferred to the research fund pursuant to section 25-17-202 (3) (a) (I) (A), C.R.S. This paragraph (a) is repealed, effective July 1, 2014.
- (b) Any moneys that the general assembly may appropriate to the research fund;
- (c) Any moneys received pursuant to section 23-19.7-103 (1) (j);
- (d) Any moneys transferred pursuant to section 12-47.1-701 (2), C.R.S.; and
- (e) All income and interest derived from the deposit and investment of moneys in the research fund.



(2) Moneys in the research fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. Unexpended and unencumbered moneys remaining in the research fund at the end of any fiscal year shall remain in the research fund and shall not be credited or transferred to the general fund or any other fund.

**Source:** **L. 2007:** Entire article added, p. 1602, § 1, effective May 31. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1966, § 71, effective August 5. **L. 2010:** Entire section amended, (HB 10-1018), ch. 421, p. 2162, § 1, effective June 10. **L. 2011:** (1) amended, (SB 11-159), ch. 54, p. 143, § 3, effective March 25.

## ARTICLE 19.9

### Higher Education Federal Mineral Lease Revenues and Higher Education Maintenance and Reserve Funds

- 23-19.9-101. Definitions.  
23-19.9-102. Higher education federal mineral lease revenues fund - higher education maintenance and reserve fund - creation - sources of revenues - use.

**23-19.9-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Federal mineral lease revenues" means all moneys, including any interest or income derived therefrom, payable to the state on or after July 1, 2008, pursuant to the provisions of the federal "Mineral Lands Leasing Act" of February 25, 1920, as amended.

(2) "Maintenance and reserve fund" means the higher education maintenance and reserve fund created in section 23-19.9-102 (2) (a).

(3) "Revenues fund" means the higher education federal mineral lease revenues fund created in section 23-19.9-102 (1) (a).

**Source:** **L. 2008:** Entire article added, p. 2156, § 2, effective June 4.

**Cross references:** For the federal "Mineral Leasing Act", also popularly known as the "Mineral Lands Leasing Act", see 30 U.S.C. sec. 181 et seq.

### **23-19.9-102. Higher education federal mineral lease revenues fund - higher education maintenance and reserve fund - creation - sources of revenues - use.**

(1) (a) The higher education federal mineral lease revenues fund is hereby created in the state treasury. For the 2008-09 fiscal year and for each succeeding fiscal year, the lesser of the first fifty million dollars of the total amount of moneys required to be transferred to the revenues fund and the maintenance and reserve fund pursuant to section 34-63-102 (5.5), C.R.S., or all of such moneys shall be transferred to the revenues fund and the remainder of such moneys shall be transferred to the maintenance and reserve fund. Interest and income derived from the deposit and investment of the revenues fund shall remain in the revenues fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year. The state treasurer may invest the revenues fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(b) The general assembly may annually appropriate moneys in the revenues fund to directly pay for or pay the costs of financing capital construction projects at state-supported institutions of higher education that are included on a prioritized list of such projects specified in a joint resolution that has taken effect in accordance with section 39 of article V of the state constitution after being sponsored by the joint budget committee of the general assembly, approved by the general assembly, and presented to the governor

pursuant to section 23-1-106.3 (1) (b), enacted by Senate Bill 08-233, enacted at the second regular session of the sixty-sixth general assembly. The general assembly may also appropriate moneys in the revenues fund to the department of education for distribution by the department, or any board or division within the department that the department may designate, to school districts for capital construction projects at area vocational schools, as defined in section 23-60-103 (1). In making such appropriations, the general assembly shall give priority consideration to capital construction projects at state-supported institutions of higher education that are located in communities that are substantially impacted by energy production or conversion activities, and the department, or any board or division within the department designated to distribute moneys appropriated to the department pursuant to this paragraph (b), shall give priority consideration to capital construction projects at area vocational schools that are located in such communities. Only capital construction projects that will be used exclusively or primarily for academic purposes shall be eligible for funding pursuant to this paragraph (b).

(c) Notwithstanding any other provision of this subsection (1) to the contrary, on May 5, 2010, the state treasurer shall deduct seven hundred fifty thousand dollars from the revenues fund and transfer such sum to the general fund.

(d) Notwithstanding any other provision of this subsection (1) to the contrary, on July 1, 2010, the state treasurer shall deduct seven million dollars from the revenues fund and transfer such sum to the general fund.

(2) (a) The higher education maintenance and reserve fund is hereby created in the state treasury. The principal of the maintenance and reserve fund shall consist of moneys transferred to the maintenance and reserve fund pursuant to section 34-63-102 (5.3) (a) (II), C.R.S. Except as otherwise provided in paragraph (b) of this subsection (2), the principal of the maintenance and reserve fund shall remain in the fund and shall not be expended for any purpose. The general assembly may annually appropriate interest and income derived from the deposit and investment of moneys in the maintenance and reserve fund for controlled maintenance projects for the system of public higher education that are selected through the process set forth in sections 24-30-1303 (1) (k.5) and 2-3-1304 (1) (b), C.R.S. The state treasurer may invest the maintenance and reserve fund in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association pursuant to section 24-51-206, C.R.S.

(b) (1) If the amount of moneys in the revenues fund will be insufficient to cover the full amount of the payments due to be made under lease-purchase agreements authorized pursuant to section 23-1-106.3 (3), the general assembly may transfer from the principal of the maintenance and reserve fund or from any other sources to the revenues fund sufficient moneys to make the payments.

(II) If, at any time during a fiscal year, the most recent available quarterly revenue estimate prepared by the staff of the legislative council indicates that the amount of total general fund revenues for the fiscal year will not be sufficient to allow the state to maintain the four percent or higher reserve required by section 24-75-201.1 (1), C.R.S., the general assembly may make supplemental appropriations of principal of the maintenance and reserve fund or the state controller may allow overexpenditures to be made from principal of the maintenance and reserve fund pursuant to and in accordance with the requirements of section 24-75-111, C.R.S., in order to offset any reduction in the amount of one or more general fund appropriations for the fiscal year for operating expenses of state-supported institutions of higher education that resulted from the insufficiency in the amount of total general fund revenues.

(III) Notwithstanding any provision of this subsection (2) to the contrary, on June 30, 2009, the state treasurer shall deduct thirty-three million seven hundred thousand dollars from the higher education maintenance and reserve fund and transfer such sum to the general fund; except that, if the balance of moneys in the higher education maintenance and reserve fund on June 30, 2009, is less than thirty-three million seven hundred thousand dollars, the state treasurer shall transfer the balance of moneys in the fund to the general fund.

(IV) Notwithstanding any provision of this subsection (2) to the contrary, on April 15, 2010, the state treasurer shall deduct two million three hundred thousand dollars from the higher education maintenance and reserve fund and transfer such sum to the general fund.



(V) Notwithstanding any provision of this subsection (2) to the contrary, on May 5, 2011, the state treasurer shall deduct one million one hundred twenty-eight thousand six hundred twenty-four dollars from the higher education maintenance and reserve fund and transfer such sum to the general fund.

**Source:** **L. 2008:** Entire article added, p. 2157, § 2, effective June 4; (2)(b) amended, p. 717, § 2, effective May 12. **L. 2009:** (2)(b)(III) added, (SB 09-208), ch. 149, p. 622, § 15, effective April 20; (2)(b)(II) amended, (SB 09-228), ch. 410, p. 2256, § 5, effective July 1. **L. 2010:** (2)(b)(IV) added, (HB 10-1327), ch. 135, p. 449, § 1, effective April 15; (1)(c) and (1)(d) added, (HB 10-1389), ch. 206, p. 897, § 8, effective May 5. **L. 2011:** (2)(b)(V) added, (SB 11-222), ch. 153, p. 532, § 1, effective May 5.

## State Universities and Colleges

**Law reviews:** For article, "Drug Testing of Student Athletes: Some Contract and Tort Implications", see 67 Den. U. L. Rev. 279 (1990).

### ARTICLE 20

#### University of Colorado

**Cross references:** For the inclusion of the university of Colorado within the definition of institution for purposes of the public records law, see § 24-72-202 (1.5).

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PART 2

TOBACCO-RELATED AND  
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PART 1

UNIVERSITY OF COLORADO

**23-20-101. University of Colorado - role and mission - all campuses.** (1) The role and mission of the several campuses of the university of Colorado shall be as follows:

(a) The Boulder campus of the university of Colorado shall be a comprehensive graduate research university with selective admission standards. The Boulder campus of the university of Colorado shall offer a comprehensive array of undergraduate, master's, and doctoral degree programs. The Boulder campus of the university of Colorado has exclusive authority to offer graduate programs in law. The Colorado commission on higher education, in consultation with the board of regents, shall designate those graduate level programs that are the primary responsibility of the Boulder campus of the university of Colorado. The university has the responsibility to provide on a statewide basis, utilizing when possible and appropriate the faculty and facilities of other educational institutions, those graduate level programs. The commission shall include in its funding recommendations a level of general fund support for these programs.

(b) The Denver campus of the university of Colorado shall be an urban comprehensive undergraduate and graduate research university with selective admission standards. The Denver campus shall offer baccalaureate, master's, and a limited number of doctoral degree programs, emphasizing those that serve the needs of the Denver metropolitan area. The Denver campus has statewide authority to offer graduate programs in public administration and exclusive authority in architecture and planning.

(c) The Colorado Springs campus of the university of Colorado shall be a comprehensive baccalaureate and specialized graduate research university with selective admission standards. The Colorado Springs campus shall offer liberal arts and sciences, business, engineering, health sciences, and teacher preparation undergraduate degree programs, and a selected number of master's and doctoral degree programs.

(d) The health sciences center campus of the university of Colorado shall offer specialized baccalaureate, first-professional, master's, and doctoral degree programs in health-related disciplines and professions. It shall be affiliated with the university of Colorado hospital and other health care facilities that offer settings for education, clinical practice, and basic and applied research. It shall have exclusive authority in medicine, dentistry, pharmacy, and physical therapy.

**Source:** G.L. § 2748. G.S. § 3438. R.S. 08: § 6933. C.L. § 7996. CSA: C. 169, § 1. CRS 53: § 124-2-1. C.R.S. 1963: § 124-2-1. L. 85: Entire section R&RE, p. 762, § 5, effective July 1. L. 89: (1)(b) amended, p. 1013, § 5, effective July 1. L. 2003: Entire section amended, p. 2593, § 1, effective July 1. L. 2011: (1)(c) amended, (SB 11-204), ch. 308, p. 1509, § 2, effective August 10.

**23-20-102. Regents - election and term.** (1) The university shall be governed by a board of nine regents, who shall be elected for terms of six years each as provided in this section.

(2) (a) At the general election held in 1974, and each six years thereafter, three regents shall be elected, one of whom shall be a qualified elector of, and elected by the qualified



electors of, the first congressional district; one of whom shall be a qualified elector of, and elected by the qualified electors of, the fourth congressional district; and one of whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(b) At the general election held in 1976, and each six years thereafter, three regents shall be elected, one of whom shall be a qualified elector of, and elected by the qualified electors of, the third congressional district; one of whom shall be a qualified elector of, and elected by the qualified electors of, the fifth congressional district; and one of whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(c) (I) At the general election held in 1978, and each six years thereafter through the general election held in 1996, three regents shall be elected, one of whom shall be a resident of, and elected by the qualified electors of, the second congressional district, one of whom shall be a resident of, and elected by the qualified electors of, the sixth congressional district, and one of whom shall be a qualified elector of this state and elected at large by the qualified electors of this state.

(II) At the general election held in 2002, and each six years thereafter, three regents shall be elected, one of whom shall be a resident of, and elected by the qualified electors of, the second congressional district, one of whom shall be a resident of, and elected by the qualified electors of, the sixth congressional district, and one of whom shall be a resident of, and elected by the qualified electors of, the seventh congressional district.

**Source:** G.L. § 2750. G.S. § 3441. R.S. 08: § 6937. C.L. § 8000. CSA: C. 169, § 5. CRS 53: § 124-2-5. C.R.S. 1963: § 124-2-5. L. 73: p. 1323, § 1. L. 81: (2)(c) amended, p. 1114, § 1, effective May 18. L. 2001: (2)(c) amended, p. 1083, § 1, effective August 8.

#### ANNOTATION

**Regents of the university of Colorado are subject to proceedings in the nature of quo warranto** instituted by the attorney general or a

private citizen as relator. *People ex rel. Jerome v. Regents of State Univ.*, 24 Colo. 175, 49 P. 286 (1897).

**23-20-103. Oath of regents.** The members of the board of regents, before entering upon their duties, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and of the state of Colorado, and that I will perform the duties of regent of the university of Colorado faithfully and to the best of my ability." Said oath or affirmation shall be filed in the office of the secretary of state.

**Source:** G.L. § 2751. G.S. § 3442. R.S. 08: § 6938. C.L. § 8001. CSA: C. 169, § 6. CRS 53: § 124-2-6. C.R.S. 1963: § 124-2-6.

**23-20-104. Meetings - quorum.** The meetings of the board of regents shall be held at such times and places as the board may appoint; but not less than two meetings per annum shall be held at the university. The president of the board may call special meetings where he deems it expedient, or special meetings may be called by any three members of the board. A majority of the regents shall constitute a quorum and be competent for the transaction of business.

**Source:** G.L. § 2755. G.S. § 3446. R.S. 08: § 6942. C.L. § 8004. CSA: C. 169, § 9. CRS 53: § 124-2-9. C.R.S. 1963: § 124-2-9.

**23-20-105. Governor to fill vacancies.** (1) The governor of the state shall fill all vacancies that may occur in the board of regents. The persons so appointed shall hold their offices until the next general election and until their successors are elected and duly qualified according to law.

(2) The governor shall appoint, effective July 1, 1973, three persons to fill vacancies on the board of regents which will exist as of said date by virtue of section 12 of article IX of

the state constitution, one such appointment to be of a qualified elector of the state for a term expiring on the second Tuesday in January, 1975, one qualified elector of the state for a term expiring on the second Tuesday in January, 1977, and one qualified elector of the state for a term expiring on the second Tuesday in January, 1979. Their respective successors in office shall be elected from the state at large, as provided in section 23-20-102.

**Source:** G.L. § 2753. G.S. § 3444. R.S. 08: § 6940. C.L. § 8002. CSA: C. 169, § 7. CRS 53: § 124-2-7. C.R.S. 1963: § 124-2-7. L. 73: p. 1324, § 2.

**23-20-106. President - election.** The regents of the university shall elect a president of the university, who shall be an employee-at-will pursuant to section 24-19-104, C.R.S., and whose employment shall be subject to the restrictions imposed by article 19 of title 24, C.R.S. The president shall be the principal executive officer of the university and a member of the faculty thereof and shall carry out the policies and programs established by the board of regents.

**Source:** G.L. § 2754. G.S. § 3445. R.S. 08: § 6941. C.L. § 8003. CSA: C. 169, § 8. CRS 53: § 124-2-8. C.R.S. 1963: § 124-2-8. L. 73: p. 1324, § 3. L. 96: Entire section amended, p. 851, § 6, effective May 23.

**23-20-107. President to report - contents.** The president of the university shall make a report on the first day of September of each year to the board of regents. The report shall exhibit the condition and progress of the institution in its several departments, the different courses of study pursued therein, the branches taught, the means and methods of instruction adopted, the number of students with their names, classes, and residences, and such other matters as he may deem proper to communicate.

**Source:** G.L. § 2767. G.S. § 3458. R.S. 08: § 6954. C.L. § 8026. CSA: C. 169, § 29. CRS 53: § 124-2-28. C.R.S. 1963: § 124-2-18.

**23-20-108. Secretary - duties.** The board of regents shall elect a secretary, who shall hold the office during the pleasure of the board. The secretary shall record all the proceedings of the board of regents in a visual text format that may be transmitted electronically and carefully preserve all its books and papers. The secretary's books shall show how the permanent fund of the university has been invested; the amount of each kind of securities, if any, with the date thereof, and when due; the interest thereon, and when and where payable; the amount of each loan, if any, when made and payable to whom, how secured, at what rate of interest, and when and where payable. The secretary shall countersign and register all warrants for money on the treasurer. The treasurer shall not pay a warrant for money unless the same is drawn by the president and countersigned by the secretary.

**Source:** G.L. § 2760. G.S. § 3451. R.S. 08: § 6947. C.L. § 8009. CSA: C. 169, § 14. CRS 53: § 124-2-14. C.R.S. 1963: § 124-2-14. L. 2009: Entire section amended, (HB 09-1118), ch. 130, p. 560, § 1, effective August 5.

**23-20-109. Treasurer - duties - bond.** The board of regents shall elect a treasurer of the university, who shall hold his office at the pleasure of the board. He shall keep a true and faithful account of all moneys received and paid out by him and shall pay all warrants in the order of presentation. Before entering upon the duties of his office he shall take and subscribe an oath that he will faithfully perform the duties of treasurer. He shall also give a bond in the penal sum of not less than twenty-five thousand dollars, conditioned for the faithful discharge of his duties as treasurer; that he will at all times keep and render a true account of all moneys and other valuables received by him as treasurer and of the disposition he has made of the same; and that he will at all times be ready to discharge himself of the trust and to deliver up when required by said board all moneys, notes, bonds,



and other valuables entrusted to him. The bond shall have two or more sureties and be approved as to its form and the sufficiency of its sureties by the board of regents, the attorney general, and the secretary of state, who shall endorse their approval on the same. The bond shall be filed in the office of the secretary of state.

**Source:** G.L. § 2761. G.S. § 3452. R.S. 08: § 6948. C.L. § 8010. CSA: C. 169, § 15. CRS 53: § 124-2-15. C.R.S. 1963: § 124-2-15.

**23-20-110. Attorney general legal advisor.** The attorney general of the state shall be the legal advisor of the president and board of regents of the university, and he shall institute and prosecute or defend all suits in behalf of the same.

**Source:** G.L. § 2773. G.S. § 3464. R.S. 08: § 6961. C.L. § 8032. CSA: C. 169, § 35. CRS 53: § 124-2-32. C.R.S. 1963: § 124-2-22.

**23-20-111. Supervisory powers of board.** The board of regents has general supervision of the university and control and direction of all funds of and appropriations to the university.

**Source:** G.L. § 2756. G.S. § 3447. R.S. 08: § 6943. C.L. § 8005. CSA: C. 169, § 10. CRS 53: § 124-2-10. C.R.S. 1963: § 124-2-10. L. 80: Entire section amended, p. 570, § 1, effective March 17. L. 2010: Entire section amended, (SB 10-003), ch. 391, p. 1848, § 23, effective June 9.

**Cross references:** For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

#### ANNOTATION

**The regents have broad powers to impose regulations.** The board of regents has broad powers to regulate the affairs of the university of Colorado, and the university, and the regents as its governing board, can validly impose a wide variety of regulations. *Sigma Chi Fraternity v. Regents of Univ. of Colo.*, 258 F. Supp. 515 (D. Colo. 1966).

**Board resolution placing fraternity on probation for discriminatory membership policies is not unconstitutional.** Resolution of board of regents of the state university to the effect that any fraternity, social organization, or other student group compelled by its constitu-

tion, rituals, or government to deny membership to any person because of his race, color, or religion would be placed on probation did not violate the constitutional rights of national fraternity and local chapter with respect to freedom of association and was within the powers of the board. *Sigma Chi Fraternity v. Regents of Univ. of Colo.*, 258 F. Supp. 515 (D. Colo. 1966).

**The university of Colorado was entitled to claim immunity from suit in federal court under the eleventh amendment to the U.S. Constitution.** *Rozek v. Topolnicki*, 865 F.2d 1154 (10th Cir. 1989).

**23-20-112. General powers of the board - repeal.** (1) The board of regents shall enact laws for the government of the university; appoint the requisite number of professors, tutors, and all other officers; and determine the salaries of such officers and the amount to be paid for tuition in accordance with the level of cash fund appropriations set by the general assembly for the university pursuant to section 23-1-104 (1) (b) (I). It shall remove any officer connected with the university when in its judgment the good of the institution requires it.

(2) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, for fiscal years 2011-12 through 2015-16, the board of regents, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend the university.

(b) This subsection (2) is repealed, effective July 1, 2016.

**Source:** G.L. § 2757. G.S. § 3448. R.S. 08: § 6944. C.L. § 8006. CSA: C. 169, § 11. CRS 53: § 124-2-11. C.R.S. 1963: § 124-2-11. L. 70: p. 357, § 10. L. 93: Entire section amended, p. 1519, § 25, effective June 6. L. 2008: Entire section amended, p. 118, § 3, effective March 19. L. 2010: Entire section amended, (SB 10-003), ch. 391, p. 1842, § 8, effective June 9.

**Cross references:** For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

## ANNOTATION

- I. General Consideration.
- II. Procedures.
- III. Regulation of Conduct.
- IV. Oath.

### I. GENERAL CONSIDERATION.

**Applied** in *Van Pelt v. State Bd. for Cmty. Colls. & Occupational Educ.*, 195 Colo. 316, 577 P.2d 765 (1978).

### II. PROCEDURES.

**Board of regents is distinct from the executive branch of government.** The board of regents is created by the Colorado constitution, has general supervisory powers over the affairs of the university of Colorado, and has been recognized as a body politic which is distinct from the executive branch of the government. *Sigma Chi Fraternity v. Regents of Univ. of Colo.*, 258 F. Supp. 515 (D. Colo. 1966).

**Only express legislation can change regents' authority.** The specially granted authority of the regents to govern the university and enact laws pursuant to that end can only be nullified by a legislative enactment (or constitutional amendment) expressly aimed at doing so. *Associated Students of Univ. of Colo. v. Regents of Univ. of Colo.*, 189 Colo. 482, 543 P.2d 59 (1975).

**Sunshine law inapplicable to certain executive sessions.** The sunshine act cannot and does not repeal by implication the statute concerning the attorney-client evidentiary privilege, § 13-90-107(1)(b). Thus the provision concerning executive sessions involving "attorney-client communications" in the laws of the regents is upheld. *Associated Students of Univ. of Colo. v. Regents of Univ. of Colo.*, 189 Colo. 482, 543 P.2d 59 (1975).

**Open records law not applicable to university.** The open records law is a general statute and will not be construed to supersede the regents' specific supervisory control over the university. *Uberoi v. Univ. of Colo.*, 686 P.2d 785 (Colo. 1984) (decided prior to 1985 amendment to § 24-72-202).

**Board hearings do not have to be in the nature of court hearings.** The board of regents, in conducting a hearing with respect to one of its

agencies, is not required to conduct something in the nature of a court hearing, because the regents must have a degree of latitude in determining the course and scope of the proceedings to be taken; rather, the important question is whether there was an opportunity to be heard. *Sigma Chi Fraternity v. Regents of Univ. of Colo.*, 258 F. Supp. 515 (D. Colo. 1966).

**Delegation of hiring authority.** Absent legislative authorization, the board of regents' hiring authority cannot be delegated. *Univ. of Colo. v. Silverman*, 192 Colo. 75, 555 P.2d 1155 (1976).

**No contract with university absent affirmative action by board.** Since the board of regents' hiring authority cannot be delegated, no contract with the university could come into being absent affirmative action by the board of regents itself. *Univ. of Colo. v. Silverman*, 192 Colo. 75, 555 P.2d 1155 (1976).

**Power to accept resignations and retirements of faculty members** is not vested in the board of regents only and is delegable. *Kreith v. Univ. of Colo.*, 689 P.2d 718 (Colo. App. 1984).

**Interpretation of regents' rules.** Rules providing that senior instructors at the school of medicine be appointed for three years are, for purpose of interpretation, like statutes, and cannot be ignored. Where the regents have promulgated rules more stringent in favor of the appointee, due process requires regents strictly comply with their rules. *Subryan v. Regents of Univ. of Colo.*, 698 P.2d 1383 (Colo. App. 1984).

**Standards for notice of nonreappointment.** Regents must give 12 months, post notice prior to the end of the appointed term, rather than merely giving 12 months, post notice at any time during the appointed term. *Subryan v. Regents of Univ. of Colo.*, 698 P.2d 1383 (Colo. App. 1984).

**The university of Colorado was entitled to claim immunity from suit in federal court under the eleventh amendment to the U.S. Constitution.** *Rozek v. Topolnicki*, 865 F.2d 1154 (10th Cir. 1989).

### III. REGULATION OF CONDUCT.

**The university has the power to formulate and enforce rules of student conduct** that are



appropriate and necessary to the maintenance of order and propriety, considering the accepted norms of social behavior in the community, where such rules are reasonably necessary to further the university's educational goals. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

The right of the university administration to invoke its disciplinary powers need not be entirely bottomed on any published rule or regulation, as it is an inherent power that the school administration authorities have to maintain order on its campus, and to afford students, school officials, employees, and invited guests freedom of movement on the campus and the right of ingress and egress to the school's physical facilities. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**Regulations and rules which are necessary in maintaining order and discipline are always considered reasonable.** *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**Rule prohibiting hazing is not unconstitutional restraint of freedoms of speech and assembly.** University rule prohibiting hazing in all forms, including class conflicts, injury to property on campus or elsewhere, and interference in any manner with public or private rights of citizens, is not on its face prior restraint on right to freedom of speech and right to assemble. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**Rule is unconstitutionally vague.** State university rules requiring students to conduct themselves so as to reflect credit upon university and prohibiting hazing in all forms were not invalid on grounds of vagueness or uncertainty. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**There was no denial of equal protection where there were three distinct types of pun-**

**ishment** imposed on students who had engaged in campus civil disobedience: (1) Suspension with permission to reapply; (2) suspension with immediate reinstatement and probation; and (3) probation; and where the punishment meted out to the respective plaintiffs was in direct relation to the student's class year at the university and his maturity. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**Judicial review in the expulsion of students is limited** to the scope of the regulation and its reasonableness, not the wisdom of the discretion exercised under it. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

**Students held to have been afforded procedural due process** by university authorities. *Buttny v. Smiley*, 281 F. Supp. 280 (D. Colo. 1968).

#### IV. OATH.

**Oath required of teachers and employees of the university of Colorado, which was promulgated by the board of regents is not vague and indefinite** so as to be a violation of due process. *Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), *aff'd mem.*, 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed.2d 275 (1968).

**There is no procedural due process deprivation growing out of the failure to provide a hearing following a dismissal of a teacher or employee for failure to prescribe to the oath** required by the board of regents because in the case of the failure to take or subscribe to an oath the action itself is final and conclusive and no amount of hearing can change the fact that the person has refused to take it. *Hosack v. Smiley*, 276 F. Supp. 876 (D. Colo. 1967), *aff'd mem.*, 390 U.S. 744, 88 S. Ct. 1442, 20 L. Ed.2d 275 (1968).

**23-20-113. Board to fix salaries.** The board of regents shall determine the compensation of the secretary and the treasurer of the university, and the regents are ineligible to the office of treasurer.

**Source:** G.L. § 2762. G.S. § 3453. R.S. 08: § 6949. C.L. § 8011. CSA: C. 169, § 16. CRS 53: § 124-2-16. C.R.S. 1963: § 124-2-16.

**23-20-114. Employment of medical personnel.** (1) The board of regents of the university of Colorado has authority to employ medical personnel who are not citizens of the United States at the university of Colorado health sciences center, the university of Colorado psychiatric hospital, and the medical division of the graduate school of the university of Colorado. Medical personnel who are not citizens of the United States are exempt from the licensure requirements of the "Colorado Medical Practice Act", article 36 of title 12, C.R.S., with respect to services performed in the course of such employment, but such personnel shall first comply with all other requirements of said act, which includes the taking and passing of examinations approved by the Colorado medical board and by the national board of medical examiners, the national board of examiners for osteopathic physicians and surgeons, or the federation of state medical boards, or their successor organizations, on subjects relating to the basic sciences as provided by law within three months after the date of employment unless such examinations are not required by section

12-36-107 (1) (b), C.R.S. Such exemptions from licensure or provisions in this section provided for such personnel who are not citizens of the United States shall continue only during the minimum period of time within which the particular individual can become a citizen according to the laws of the United States and the regulations of the immigration and naturalization service of the United States, department of justice, or any successor agency, or such additional time as may be granted by such boards. The exemptions in this section are limited to services performed in the course of employment with the university of Colorado as limited in this section and shall terminate when such employment terminates.

(2) (a) The board of regents may arrange for the billing, collection, and disbursement for professional services rendered by physicians and other faculty members of the health sciences schools through a nonprofit corporation or through a contractual arrangement with a profit or nonprofit corporation or through such other mechanism as may be authorized by the board of regents. Any mechanism employed under the authority of this subsection (2) shall be self-supporting. Any such mechanism shall allow for contracting with the board of regents or the state of Colorado for reimbursement of physician services provided for the medically indigent.

(b) The fees collected under this subsection (2) shall be used for the remuneration and support of the professional, research, and educational activities of the members of the faculty of the health sciences schools and shall also be used for the administrative costs of such activities, in accordance with rules to be adopted by the board of regents.

(c) The board of regents, at the request of the general assembly, the joint budget committee, or the state auditor, shall provide a report of the financial status of any funds maintained pursuant to this subsection (2), including but not limited to expenditures, revenues, and the number of staff and faculty involved.

(d) Nothing in this subsection (2) shall be construed to give the board of regents any control over or power to arrange for the billing, collection, and disbursement of hospital fees of the university of Colorado hospital authority operating the university of Colorado university hospital pursuant to the provisions of part 5 of article 21 of this title, any control over how such hospital fees are spent in the operation of the hospital, or any control over the hospital's gross income, the budget and spending of the hospital, or the hospital's authority to borrow money or incur debt.

**Source:** L. 63: p. 874, § 1. C.R.S. 1963: § 124-2-33. L. 76: Entire section amended, p. 415, § 11, effective July 1. L. 77: Entire section amended, p. 280, § 27, effective August 1. L. 79: Entire section amended, p. 524, § 29, effective July 1. L. 89: Entire section amended, p. 1003, § 2, effective October 1. L. 91: Entire section amended, p. 585, § 4, effective October 1. L. 2010: (1) amended, (HB 10-1260), ch. 403, p. 1988, § 80, effective July 1. L. 2011: (1) amended, (HB 11-1303), ch. 264, p. 1163, § 52, effective August 10.

**Editor's note:** This section was amended in House Bill No. 1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill No. 1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents*, 804 P. 2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment to this section in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

**23-20-115. Departments - degrees - diplomas.** The university shall include a classical, philosophical, normal, scientific, law, physical sciences, and preparatory department and such other departments, with courses of instruction and elective studies, as the board of regents may determine. The board has authority to confer such degrees and grant such diplomas and other marks of distinction as are usually conferred and granted by other universities. Nothing in this section shall be construed to require the regents to establish the several departments until such time as in their judgment the wants and necessities of the



people require it. Nothing in this section shall be construed to limit the authority of the Colorado commission on higher education to direct the board of regents to discontinue an academic or vocational degree program area pursuant to section 23-1-107 (2).

**Source:** G.L. § 2758. G.S. § 3449. L. 07: p. 590, § 1. R.S. 08: § 6945. C.L. § 8007. CSA: C. 169, § 12. CRS 53: § 124-2-12. C.R.S. 1963: § 124-2-12. L. 85: Entire section amended. p. 762, § 4, effective July 1.

#### ANNOTATION

**Board of regents is not required to establish certain departments.** By this section the university shall include certain designated departments and such other departments as the board of regents may determine; but the board is not required to establish these departments (ex-

cept the normal and preparatory) until such time as, in their judgment, the wants and necessities of the people require it. People ex rel. Jerome v. Regents of the State Univ., 24 Colo. 175, 49 P. 286 (1897).

**23-20-116. Claims against university.** Except with respect to claims coming within the provisions of article 10 of title 24, C.R.S., the board of regents shall audit all claims against the university, and the president shall draw all warrants upon the treasurer for approved claims; but before payment such warrants shall be countersigned by the secretary, who shall keep a specific and complete record of all matters involving the expenditure of money, which record shall be submitted to the board of regents at each regular meeting of the same.

**Source:** G.L. § 2763. G.S. § 3454. R.S. 08: § 6950. C.L. § 8012. CSA: C. 169, § 17. CRS 53: § 124-2-17. C.R.S. 1963: § 124-2-17. L. 71: p. 1216, § 14.

#### **23-20-117. Power and authority of regents to invest. (Repealed)**

**Source:** L. 55: p. 805, § 1. CRS 53: § 124-2-40. C.R.S. 1963: § 124-2-30. L. 74: Entire section repealed, p. 381, § 1, effective May 8.

**23-20-117.5. University of Colorado fund - creation - control - use.** (1) There is hereby created in the state treasury the university of Colorado fund that shall be under the control and administration of the board of regents of the university of Colorado in accordance with the provisions of this part 1. The board of regents shall have authority and responsibility for all university funds. The board of regents shall designate, pursuant to its statutory authority, those moneys whether received by appropriation, grant, contract, gift, or any other means that shall be credited to said fund together with all interest derived from the deposit and investment of moneys in the fund. The moneys in the fund shall remain under the control of the regents of the university of Colorado and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the university of Colorado fund shall be used by the board of regents of the university of Colorado for the payment of salaries and operating expenses of the board and the institutions it governs, as well as for the payment of any other expenses incurred by the board in carrying out its statutory powers and duties.

(3) Moneys in the university of Colorado fund may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113. C.R.S., any public-private initiatives with the department of transportation, as defined in section 43-1-1201 (3), C.R.S., and bonds issued for turnpikes in accordance with part 2 of article 3 of title 43, C.R.S. The board shall determine the amount of moneys to be credited in the fund. Until the board of regents withdraws the moneys from the fund, the state treasurer shall invest the moneys on behalf of the board of regents.

(4) The board of regents shall establish an investment advisory committee consisting of at least five members to make recommendations to it regarding investments. The investment

committee shall include the university of Colorado treasurer, the state treasurer, a member of the board of regents, and two representatives of the financial community.

**Source:** **L. 94:** Entire section added, p. 537, § 1, effective July 1. **L. 98:** (3) amended, p. 445, § 5, effective August 5. **L. 2000:** (1) amended, p. 613, § 12, effective May 18. **L. 2005:** (3) amended, p. 278, § 8, effective August 8.

**23-20-118. Investments in consolidated funds.** Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the regents of the university of Colorado are authorized to hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

**Source:** **L. 55:** p. 806, § 2. **CRS 53:** § 124-2-41. **C.R.S. 1963:** § 124-2-31.

**23-20-119. Corporate stock in name of nominee authorized.** (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the regents of the university of Colorado are authorized to hold certificates of stock in the name of a nominee of their selection without disclosing the fact that certificates are held by the regents or are held in a fiduciary capacity, if:

(a) The records of the regents and all reports or accounts rendered by them clearly show the ownership of the stock by the regents and the facts regarding their holding; and

(b) The nominee deposits with the regents a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of the stock certificate or access thereto except under the immediate supervision of the treasurer of the university or such other person as the regents designate.

(2) A report shall be made by the regents of the university of Colorado, to the general assembly at each regular session, of the investments made and the interest derived therefrom under the provisions of this section and section 23-20-118.

**Source:** **L. 55:** p. 806, § 3. **CRS 53:** § 124-2-42. **C.R.S. 1963:** § 124-2-32. **L. 76:** (2) amended, p. 304, § 38, effective May 20.

**23-20-120. Donations - invested.** All donations of money, securities, or other property shall be conveyed to the regents of the university and invested as other funds of the university. Donations may be made to, and for the sole use of, any of the departments of the university, and donations so made shall be kept in a separate fund for the use of such department.

**Source:** **G.L. § 2772. G.S. § 3463. R.S. 08:** § 6960. **C.L. § 8031. CSA:** C. 169, § 34. **CRS 53:** § 124-2-31. **C.R.S. 1963:** § 124-2-21.

**23-20-121. Money from university lands.** All moneys which arise from the sale of public lands belonging to the university of Colorado, or from the leasing of lands belonging to the said university, or from interest arising on the investment of such funds are placed under the exclusive control of the regents of the said university. The treasurer of the state of Colorado is instructed to turn over to the said regents all the moneys, warrants, bonds, and other securities of any nature that have come from the sale of said public lands belonging to said university.

**Source:** **L. 1895:** p. 237, § 1. **R.S. 08:** § 6958. **C.L. § 8029. CSA:** C. 169, § 32. **CRS 53:** § 124-2-29. **C.R.S. 1963:** § 124-2-19.

**23-20-122. Raising funds for university student memorial center.** (1) For the purpose of raising funds from time to time for erecting, purchasing, otherwise acquiring, reconstructing, improving, adding to, extending, bettering, equipping, and furnishing, or



any combination thereof, a student memorial center consisting of one or more buildings on the campus of the university of Colorado, the board of regents thereof, designated as the "regents of the university of Colorado" (in this section sometimes designated as the "board"), is authorized to enter into contracts with persons or corporations advancing money for such purposes, under which contracts the board is authorized to pledge the net income from the student memorial center, its facilities, and special student fees assessed for the purpose of financing the student memorial center or any part of such net income to the repayment of any sums so advanced and interest thereon.

(2) The board shall not pledge the general income of the university or create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(3) For the purpose of evidencing any such loan, the board may issue, in its name and on its behalf, notes, debentures, bonds, or other evidences of indebtedness, in this section sometimes designated as "obligations".

(4) Any obligations may be refunded by the board, subject to provisions concerning their payment and any other contractual limitations in any proceedings authorizing the issuance of the obligations or otherwise appertaining thereto, by the issuance of obligations to refund, pay, and discharge all or any part of outstanding obligations for the purpose of avoiding or terminating any default, reducing interest costs or effecting other economies, or modifying or eliminating restrictive contractual limitations concerning the outstanding obligations of the student memorial center, or any combination thereof.

(5) Any obligations issued for refunding purposes either may be delivered in exchange for the outstanding obligations being refunded or may be publicly or privately sold.

(6) No obligations may be refunded under this section unless the holders thereof voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding obligations. Provision shall be made for paying the obligations within said period of time. The principal amount of the refunding obligations may exceed the principal amount of the refunded obligations if the aggregate principal and interest costs of the refunding obligations do not exceed such unaccrued costs of the obligations refunded. The principal amount of the refunding obligations may also be less than or the same as the principal amount of the obligations being refunded so long as provision is duly and sufficiently made for the payment of the refunded obligations.

(7) The proceeds of refunding obligations shall either be immediately applied to the retirement of the obligations to be refunded or placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation to be applied to the payment of the obligations being refunded upon their presentation therefor. To the extent any incidental expenses have been capitalized, such refunding obligation proceeds may be used to defray such expenses. Any accrued interest and any premium appertaining to a sale of refunding obligations may be applied to the payment of the interest thereon, the principal thereof, or both interest and principal or deposited in a reserve therefor as the board may determine. Any such escrow shall not necessarily be limited to proceeds of refunding obligations but may include other moneys available for its purpose. Any proceeds in escrow, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such proceeds and investments in escrow, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom to pay the obligations being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the board exercises a prior redemption option. Any purchaser of any obligation issued under this section shall in no manner be responsible for the application of the proceeds thereof by the board or any of its officers, agents, or employees.

(8) Refunding obligations may be made payable from any net revenues derived from the student memorial center, or any portion thereof, notwithstanding that the pledge of such revenues for the payment of the outstanding obligations being refunded is thereby modified.

(9) Obligations for refunding and obligations for any other purpose authorized may be issued separately or in combination in one series or more.

(10) The board shall establish a maximum net effective interest rate for obligations issued under this section. Such obligations shall bear interest at a rate or rates such that the net effective interest rate of the issue of obligations does not exceed the maximum net effective interest rate established. Such interest shall be payable semiannually or annually and evidenced by one or two sets of coupons, if any, executed with the facsimile or manually executed signature of any official or officials of the board; except that the first coupon or coupons appertaining to any obligation may evidence interest not in excess of one year, and such obligations may be in one series or more, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be designated or redesignated, may be in such denomination or denominations, may be payable in such medium of payment, at such place or places within or without the state, may carry such registration privileges, may be subject to such terms of prior redemption in advance of maturity in such order or by lot or otherwise at such time or times with or without a premium, may be executed in such manner, may bear such privileges for reissuance in the same or other denominations, may be so reissued without modification of maturities and interest rates, and may be in such form, either coupon or registered, as may be provided by resolution of the board.

(11) The obligations shall never be sold at a price such that the net effective interest rate of the issue of obligations exceeds the maximum net effective interest rate established.

(12) Obligations may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both. If interest accruing on the obligations is not represented by interest coupons, the obligations may provide for the endorsing of payments of interest thereon. The obligations generally shall be issued in such manner, in such form, either coupon or registered, with such recitals, terms, and provisions for subordination of subsequently issued obligations and such covenants and conditions, and with such other details as may be provided by the board, except as otherwise provided in this section.

(13) All obligations and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

(14) All moneys received from the issuance of any obligations authorized in this section shall be used solely for the purpose for which issued and the cost of any project designated by the board and authorized in this section, including interest or discount on obligations, or both; cost of issuance of obligations; architectural, engineering, and inspection costs and legal expenses; costs of financial, professional, and other estimates and advice; contingencies; any administrative, operating, and other expenses of the board appertaining to a student memorial center prior to and during such acquisition or improvement and equipment, and additionally during a period of not exceeding one year after the completion thereof, as may be estimated and determined by the board in any resolution authorizing the issuance of any obligations or other instrument appertaining thereto, and all such other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of said center or part thereof, the placing of the same in operation, and also any provision or reserves for working capital, operation, maintenance, or replacement expenses, or for payment or security of principal or of interest on any obligations during or after such acquisition or improvement and equipment as the board may determine, and also reimbursements to the board, any bank, other corporation, or any other person of any moneys previously expended for the purposes of said center; except that any accrued interest and any premium appertaining to a sale of obligations may be applied to the payment of the interest thereon and the principal thereof, or both interest and principal, or may be deposited in a reserve therefor, as the board may determine.

(15) The powers conferred by this section shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this section shall not affect, the powers conferred by any other law. Obligations may be issued under this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall be controlling.



**Source:** L. 49: p. 732, §§ 1, 2. CSA: C. 169, § 36(1). CRS 53: § 124-2-34. L. 63: pp. 869, 873, §§ 1, 2. C.R.S. 1963: § 124-2-24. L. 70: p. 346, § 3. L. 89: (7) amended, p. 1110, § 15, effective July 1.

**23-20-123. Rents or charges for buildings and facilities for research.** The regents of the university of Colorado are authorized to contract for or impose and collect rents or charges for the use of university buildings and facilities for research, including research conducted by or under the auspices of the university of Colorado. Such rents or charges shall be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

**Source:** L. 64: p. 632, § 1. C.R.S. 1963: § 124-2-34.

**23-20-124. Research building revolving fund - appropriation of fund.** There is established in the office of the treasurer of the university a fund to be known as the university of Colorado research building revolving fund. There shall be credited to said fund the user charges or rents authorized by section 23-20-123 and imposed by the board of regents of the university of Colorado, specific appropriations or grants or gifts made to said fund, and the proceeds of the sale of anticipation warrants authorized by sections 23-20-123 to 23-20-125. No payments from student fees, tuition receipts, or general funds shall be deposited in the research building revolving fund or used for said programs; except that the board of regents is authorized, pursuant to sections 23-5-102 and 23-5-103, to pledge the revenues and net income of any other designated enterprise auxiliary facilities in connection with bonds or other obligations secured by the research building revolving fund. All interest accumulated in this fund shall follow the fund. All such moneys so credited to said fund are appropriated to the university of Colorado for the payment of maintenance and operating costs for its research buildings and facilities and for the planning, construction, and equipping of additional research buildings and facilities for the university of Colorado; except that the board of regents is authorized, pursuant to sections 23-5-102 and 23-5-103, to pledge the research building revolving fund in connection with bonds or other obligations issued by or on behalf of any other designated enterprise auxiliary facilities.

**Source:** L. 64: p. 632, § 2. C.R.S. 1963: § 124-2-35. L. 86: Entire section amended, p. 830, § 2, effective May 8. L. 91: Entire section amended, p. 550, § 1, effective March 1. L. 99: Entire section amended, p. 851, § 11, effective May 24; entire section amended, p. 904, § 2, effective August 4.

**Editor's note:** Amendments to this section by Senate Bill 99-203 and House Bill 99-1338 were harmonized.

**23-20-125. Anticipation warrants.** The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of regents of the university of Colorado, the total amount of which shall not exceed four million dollars, to be repaid exclusively from the user revenues accruing to the university of Colorado research building revolving fund as provided in sections 23-20-123 to 23-20-125 or from revenues and net income of any other designated enterprise auxiliary facilities that are pledged to the repayment of such anticipation warrants pursuant to sections 23-5-102 and 23-5-103, or any combination thereof; such anticipation warrants shall bear interest at a rate not exceeding four percent per annum except those issued on or after February 15, 1968, which shall bear interest not exceeding six percent per annum, and shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of regents of the university of Colorado.

**Source:** L. 64: p. 633, § 3. C.R.S. 1963: § 124-2-36. L. 68: p. 6, § 1. L. 71: p. 1181, § 1. L. 99: Entire section amended, p. 904, § 3, effective August 4.

**23-20-126. Purchase of anticipation warrants.** It is lawful for any public entity, as defined in section 24-75-601 (1), C.R.S., to purchase anticipation warrants issued in pursuance of section 23-20-125 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not to exceed twenty percent of the total of any specific fund of such public entity shall be invested in such warrants.

**Source:** L. 66: p. 18, § 1. C.R.S. 1963: § 124-2-37. L. 89: Entire section amended, p. 1128, § 61, effective July 1.

**23-20-127. Warrants as security - when.** Anticipation warrants issued in pursuance of sections 23-20-123 to 23-20-129 may be used as security for any depository bond or obligation where any kind of bonds or other securities shall or may, by law, be deposited as security.

**Source:** L. 66: p. 18, § 1. C.R.S. 1963: § 124-2-38.

**23-20-128. Tax exemption.** Any anticipation warrants issued pursuant to the provisions of section 23-20-125 by the regents of the university of Colorado shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

**Source:** L. 66: p. 18, § 1. C.R.S. 1963: § 124-2-39.

**23-20-129. Bonds.** (1) The regents of the university of Colorado are hereby authorized to issue bonds as provided in this section for the purpose of obtaining funds for the planning, construction or other acquisition, and equipping of research buildings and facilities, wherever located in the state of Colorado, for the university of Colorado. Any such buildings and facilities shall be related to the research mission of the university.

(2) Such bonds shall be in such amount, shall mature at such time or times, shall bear interest at such rate or rates, and shall otherwise be sold and issued in such manner and on such terms as provided by the regents of the university of Colorado.

(3) Such bonds shall be payable from, and shall be secured by a pledge of, the university of Colorado research building revolving fund created in section 23-20-124, or the revenues and net income of any other designated enterprise auxiliary facilities that are pledged to the repayment of such bonds pursuant to sections 23-5-102 and 23-5-103, or any combination thereof.

(4) The authority contained in this section shall be in addition to the authority granted the regents of the university of Colorado to issue anticipation warrants pursuant to section 23-20-125; except that nothing in this section shall be construed to authorize the issuance of such bonds if by such issuance the obligation of any contract entered into with respect to any outstanding anticipation warrants would thereby be impaired.

(5) Any bonds issued pursuant to this section shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

(6) Bonds issued pursuant to the provisions of this section shall not constitute a debt or an indebtedness of the state within the meaning of any applicable provision of the state constitution or state statutes.

**Source:** L. 66: p. 19, § 1. C.R.S. 1963: § 124-2-40. L. 68: p. 6, § 2. L. 70: p. 347, § 4. L. 82: Entire section R&RE, p. 343, § 1, effective April 23. L. 86: (1) and (6) amended, p. 830, § 1, effective May 8. L. 91: (6) amended, p. 550, § 2, effective March 1. L. 99: (3) amended, p. 905, § 4, effective August 4. L. 2007: (6) amended, p. 67, § 1, effective August 3.



**23-20-129.5. Enterprise auxiliary facility bonds.** (1) The board of regents shall establish policies and procedures to determine and monitor the ability of the university of Colorado:

(a) To pay principal, interest, and any other costs due in connection with any revenue bonds issued pursuant to section 23-5-102;

(b) To establish and maintain the necessary reserves required to pay the principal, interest, and other costs due in connection with any revenue bonds issued pursuant to section 23-5-102;

(c) To pay costs of operation and maintenance of the auxiliary facility or group of auxiliary facilities on behalf of which revenue bonds are issued pursuant to section 23-5-102; and

(d) To satisfy all covenants and agreements set forth in any resolution, indenture, or other document authorizing or executed in connection with the issuance of revenue bonds pursuant to section 23-5-102.

(2) The policies and procedures adopted pursuant to subsection (1) of this section shall include, but need not be limited to, the following requirements:

(a) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall identify the primary revenue sources for payment of principal and interest on the bonds from among those revenues and other moneys pledged for payment of principal and interest on the revenue bonds;

(b) That, upon issuance of revenue bonds pursuant to section 23-5-102, the university shall perform a financial analysis, based upon assumptions approved by the board of regents and the state auditor, that demonstrates that revenues expected to be annually available from the sources identified under paragraph (a) of this subsection (2) will be sufficient to pay at least one hundred twenty-five percent of the annual principal and interest on the revenue bonds;

(c) That the university shall annually review the revenue sources identified under paragraph (a) of this subsection (2) to determine if the financial analysis required in paragraph (b) of this subsection (2) shows sufficient revenues for payment of principal and interest on the revenue bonds and, if the revenues are not sufficient, take such action as the board of regents and the state auditor shall require to assure that adequate revenues are available to pay the principal and interest on the revenue bonds;

(d) That the maximum annual debt service on all revenue bonds issued pursuant to section 23-5-102, except as provided for in sections 23-5-101.8 and 23-5-103, outstanding at any time for the university shall not exceed ten percent of the university's unrestricted current fund expenditures plus mandatory transfers;

(e) That the university shall establish and maintain such debt service reserves and such reserves for repair and replacement of any auxiliary facility or group of auxiliary facilities on behalf of which revenue bonds are issued pursuant to section 23-5-102 and as may be required by the terms of the resolution, indenture, or other document authorizing or executed in connection with the issuance of the revenue bonds and subject to review and approval by the state auditor; and

(f) That the university shall annually report to the state auditor regarding compliance with the requirements specified in this subsection (2) and any additional requirements that may be imposed by the board of regents.

(3) The policies and procedures required under this section shall be established no later than January 1, 1995, and shall apply to any revenue bonds issued pursuant to section 23-5-102 on or after such date.

**Source:** L. 94: Entire section added, p. 1679, § 5, effective May 31. L. 2004: (2)(d) amended, p. 1936, § 6, effective July 1.

**Cross references:** For the legislative declaration contained in the 2004 act amending subsection (2)(d), see section 1 of chapter 391, Session Laws of Colorado 2004.

**23-20-130. Disposition of natural specimens.** All specimens of natural history and geological and mineralogical specimens which are collected by the state geologist of Colorado, appointed by the state to investigate its natural history, belong to and are the property of the university and form a part of its cabinet.

**Source:** G.L. § 2759. G.S. § 3450. R.S. 08: § 6946. C.L. § 8008. CSA: C. 169, § 13. CRS 53: § 124-2-13. C.R.S. 1963: § 124-2-13.

**23-20-131. Free pupil from each county.** Each county is entitled to send one pupil under the age of seventeen years to said university, tuition free, said pupil to be selected by competitive examination before the county superintendent of such county and given to the highest scholarship.

**Source:** L. 1874: p. 308, § 1. G.L. § 2746. G.S. § 3439. R.S. 08: § 6934. C.L. § 7997. CSA: C. 169, § 2. CRS 53: § 124-2-2. C.R.S. 1963: § 124-2-2. L. 2006: Entire section amended, p. 1214, § 9, effective July 1, 2007.

**Editor's note:** For the repeal of statutes concerning the county superintendent of schools, see L. 84, pp. 582, 583, §§ 1-3.

**Cross references:** For the legislative declaration contained in the 2006 act amending this section, see section 1 of chapter 265, Session Laws of Colorado 2006.

**23-20-132. When tuition fee charged.** The university shall charge a reasonable tuition fee for all out-of-state students, as provided in article 7 of this title.

**Source:** L. 1893: p. 474, § 4. R.S. 08: § 6935. C.L. § 7998. CSA: C. 169, § 3. CRS 53: § 124-2-3. C.R.S. 1963: § 124-2-3. L. 73: p. 1416, § 92.

**23-20-133. Religious societies not to control.** The university shall never be under the control of any religious or irreligious denomination or society.

**Source:** G.L. § 2749. G.S. § 3440. R.S. 08: § 6936. C.L. § 7999. CSA: C. 169, § 4. CRS 53: § 124-2-4. C.R.S. 1963: § 124-2-4.

**23-20-134. No loans to board or faculty - exception.** No funds of the university shall ever be, directly or indirectly, loaned to the president or any of the regents, professors, or other officers of the said university; except that the board of regents may make loans secured by an equity interest in real estate in Colorado from funds not appropriated by the general assembly to full-time faculty members if such secured loans are made pursuant to a faculty housing assistance plan promulgated and approved by the board of regents.

**Source:** G.L. § 2771. G.S. § 3462. L. 1895: p. 238, § 3. R.S. 08: § 6959. C.L. § 8030. CSA: C. 169, § 33. CRS 53: § 124-2-30. C.R.S. 1963: § 124-2-20. L. 81: Entire section amended, p. 1115, § 1, effective May 28.

**23-20-135. Contracting debt forbidden, when.** The board of regents is prohibited from creating any debt against the university, in any manner encumbering the same, or incurring any expense beyond its ability to pay from the annual income of the university for the current year.

**Source:** G.L. § 2774. G.S. § 3465. R.S. 08: § 6962. C.L. § 8033. CSA: C. 169, § 36. CRS 53: § 124-2-33. C.R.S. 1963: § 124-2-23.

**23-20-136. Fitzsimons trust fund - creation - legislative declaration - repeal.**  
(1) The general assembly hereby finds and declares that the university of Colorado health



sciences center will be moving to the former Fitzsimons Army base over the next several decades; that the health sciences center can expect a major portion of the move to take place in the next ten to fifteen years; that creation of a trust fund would allow the state to set aside funds over a period of years in order to have moneys available at the time the most costly capital construction requests would be expected to occur; and that, in addition to the state moneys to be dedicated to the trust fund, other sources of funding for the move are being sought from the federal government, private and public sources, and the health sciences center and university hospital.

(2) In light of the projected amounts of state revenues that will be available over the next six years, the general assembly hereby finds and declares that a stable, predictable, and consistent source of revenues for the university of Colorado health sciences center's move to the former Fitzsimons Army base will better allow the state to help fund such a move. In order to provide a consistent source of revenues, the general assembly further finds and declares that it is appropriate to create a trust fund that will be provided with an annual amount of principal and that will generate an annual amount of interest that is dedicated to the university of Colorado health sciences center's move to the former Fitzsimons Army base.

(3) (a) There is hereby created in the state treasury the university of Colorado health sciences center at Fitzsimons trust fund, referred to in this section as the "Fitzsimons trust fund", the principal of which shall consist of those general fund revenues that may be transferred to the capital construction fund as provided in section 24-75-302 (2), C.R.S., and then appropriated from the capital construction fund to the Fitzsimons trust fund and of moneys appropriated to the Fitzsimons trust fund from the capital construction fund pursuant to subsection (3.5) of this section. The principal and interest of the Fitzsimons trust fund shall not be expended or appropriated for any purpose other than that stated in subsection (5) of this section. The state treasurer may, in the state treasurer's discretion, deposit, redeposit, invest, and reinvest moneys accrued or accruing to the Fitzsimons trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(b) (I) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on March 27, 2002, the state treasurer shall deduct eighteen million four hundred thousand dollars from the Fitzsimons trust fund and transfer such sum to the general fund.

(II) In order to restore the amount transferred from the Fitzsimons trust fund pursuant to subparagraph (I) of this paragraph (b), moneys from the general fund shall be transferred to the Fitzsimons trust fund in accordance with section 24-75-217, C.R.S.

(c) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on May 5, 2010, the state treasurer shall deduct five million fifty-four thousand nine hundred eighteen dollars from the Fitzsimons trust fund and transfer such sum to the general fund.

(d) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on July 1, 2010, the state treasurer shall deduct three million four hundred forty-eight thousand five hundred thirty-seven dollars from the Fitzsimons trust fund and transfer such sum to the general fund.

(3.5) (a) For the 2006-07 fiscal year and for each fiscal year thereafter in which the state receives moneys pursuant to the master settlement agreement, and in which money is due to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly, the state treasurer shall transfer to the capital construction fund and the state controller shall transfer from the capital construction fund to the Fitzsimons trust fund the lesser of the amount due to any lessor during the fiscal year or, except as otherwise provided in section 24-75-1104.5 (5), C.R.S., eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount transferred pursuant to this subsection (3.5) in any fiscal year shall not exceed eight million dollars.

(b) As used in this subsection (3.5), unless the context otherwise requires, "master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in

the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research—U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(4) On September 1, 1998, and on September 1 of each year thereafter, the state treasurer shall certify to the general assembly the amount of interest actually earned on the principal of the Fitzsimons trust fund during the previous fiscal year and shall provide an estimate of the interest expected to be earned on such principal during the current fiscal year.

(5) Moneys in the Fitzsimons trust fund may be appropriated to pay for capital construction projects for the university of Colorado health sciences center at the former Fitzsimons Army base that have received the prior approval of the board of regents of the university of Colorado, the Colorado commission on higher education, the capital development committee, the general assembly, and the joint budget committee or for lease payments on any lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly.

(6) The creation of the Fitzsimons trust fund shall in no way reduce or eliminate the opportunity of the university of Colorado health sciences center to seek funding for capital and controlled maintenance projects through the normal annual capital development committee prioritization process.

(7) All interest derived from the deposit and investment of moneys in the Fitzsimons trust fund shall be credited to said fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the Fitzsimons trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(8) This section is repealed, effective July 1, 2032.

**Source:** **L. 98:** Entire section added, p. 804, § 1, effective May 22. **L. 99:** (7) amended, p. 624, § 23, effective August 4. **L. 2002:** (3) amended, p. 152, § 7, effective March 27. **L. 2003:** (3)(a) and (5) amended and (3.5) added, p. 1378, § 8, effective April 28. **L. 2004:** (3.5)(a) amended, p. 1709, § 6, effective June 4; (3)(a) amended, p. 1213, § 106, effective August 4. **L. 2005:** (3.5)(a) amended, p. 767, § 34, effective June 1. **L. 2006:** (3.5)(a) amended, p. 1036, § 4, effective May 25. **L. 2008:** (8) amended, p. 297, § 1, effective April 3. **L. 2009:** (3.5)(a) amended, (SB 09-269), ch. 333, p. 1766, § 4, effective June 1; (3)(a) amended, (SB 09-228), ch. 410, p. 2257, § 6, effective July 1. **L. 2010:** (3)(c) and (3)(d) added, (HB 10-1389), ch. 206, p. 897, § 9, effective May 5.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsections (3)(a) and (5) and enacting subsection (3.5), see section 1 of chapter 190, Session Laws of Colorado 2003.

### **23-20-137. Health sciences center - disposition of property - use of proceeds.**

(1) On or before June 30, 2004, the university of Colorado shall develop a master plan for the development, sale, and use of the campus at ninth avenue and Colorado boulevard and the university of Colorado hospital.

(2) On or before June 30, 2006, the university of Colorado shall enter into an agreement with a third-party master developer to carry out the development, sale, or use of the real estate interests of the university of Colorado in the campus at ninth avenue and Colorado boulevard, including, but not limited to, the university's real estate interests in the ground leased to the university of Colorado hospital, that will maximize the moneys available for the move of the Colorado health sciences center to the former Fitzsimons Army base.

(3) (a) For purposes of this subsection (3), unless the context otherwise requires, "net proceeds from ninth avenue and Colorado boulevard" means the proceeds from the sale, ground lease, or other disposition of the real estate interest of the university of Colorado in the ninth avenue and Colorado boulevard campus, including, but not limited to, the university's interests in the ground leased to the university of Colorado hospital, less actual



and reasonable costs of completing the transaction and less any unsatisfied debt or other obligation relating to such real estate interests.

(b) Of the net proceeds from ninth avenue and Colorado boulevard, up to fifteen million dollars shall be deposited into the general fund. Any net proceeds from ninth avenue and Colorado boulevard in excess of fifteen million dollars shall be divided equally with one-half being deposited into the general fund and one-half being retained by the university of Colorado for the development of the Fitzsimons campus.

**Source: L. 2003:** Entire section added, p. 1378, § 7, effective April 28.

**Cross references:** For the legislative declaration contained in the 2003 act enacting this section, see section 1 of chapter 190, Session Laws of Colorado 2003.

**23-20-138. Health sciences center - definitions - accountable student program - creation.** (1) As used in this section, unless the context otherwise requires:

(a) "Accountable student" means a person who, as of the date of his or her selection for admission into a university of Colorado at Denver and health sciences center professional health care program, will not be receiving funding from the state of Colorado or a cooperative state for any portion of the costs incurred in participating in a university of Colorado at Denver and health sciences center professional health care program.

(b) "Board" means the board of regents of the university of Colorado.

(c) "Cooperative state" means a state that has entered into a cooperative agreement with the state of Colorado pursuant to section 24-60-601, C.R.S.

(d) "Special support fee" means the fee determined by the board pursuant to subsection (5) of this section to reflect the difference between the actual costs of education for an accountable student enrolled in a university of Colorado at Denver and health sciences center professional health care program and the tuition assessed to the accountable student.

(2) The board is hereby authorized to enter into a contract concerning the assessment of a special support fee with each accountable student.

(3) Each accountable student shall enter into a contract with the board that shall provide that, as a condition of the accountable student's continued enrollment in a university of Colorado at Denver and health sciences center professional health care program, a special support fee shall be paid annually to the board by or on behalf of the accountable student pursuant to subsection (4) of this section.

(4) Beginning in the 2006-07 academic year, the board may annually assess each accountable student a special support fee as the board determines necessary pursuant to subsection (5) of this section. The fee required to be collected pursuant to this subsection (4) is based on an accountable student's status as an accountable student at the time of selection for admission into a university of Colorado at Denver and health sciences center professional health care program and shall not be reduced or waived regardless of the accountable student's future status as an in-state student, pursuant to the provisions of section 23-7-103, at any time during the accountable student's participation in a university of Colorado at Denver and health sciences center professional health care program. If after the first year the accountable student ceases to participate in his or her university of Colorado at Denver and health sciences center professional health care program for reasons other than a medical disability, he or she shall repay to the university of Colorado at Denver and health sciences center professional health care program the difference between the amount paid for the special support fee and the amount of tuition that would have been otherwise assessed to the accountable student.

(5) The board shall determine annually the amount of the special support fee based on recommendations from each university of Colorado at Denver and health sciences center campus offering professional health care program courses.

(6) The fee-for-service contract negotiated between the board and the department of higher education pursuant to section 23-5-130 shall specify the amount of funding for

educational services provided to graduate students by the state of Colorado. A graduate student receiving educational services paid for by the state of Colorado is not eligible to be an accountable student.

**Source: L. 2006:** Entire section added, p. 522, § 1, effective August 7.

**23-20-139. Retirement plan - eligibility - election.** (1) (a) The university of Colorado president, chancellors, deans, other professionals exempt from the state personnel system, and faculty as determined by the board of regents to be eligible to participate in a university of Colorado retirement plan shall be members of a university retirement plan and covered under social security if required by federal law; except that, upon initial appointment to or employment in a position described in this subsection (1), an employee who is a member or inactive member of the association shall elect, within thirty days after such appointment, either to join the association in accordance with the provisions of article 51 of title 24, C.R.S., or to participate in a university retirement plan.

(b) For purposes of this section, "association" means the public employees' retirement association created pursuant to section 24-51-201, C.R.S.

(2) An election made by an employee pursuant to subsection (1) of this section shall be irrevocable and shall remain the election of the employee at any time the employee is employed by the university in a position described in subsection (1) of this section.

(3) An election to participate in a university retirement plan pursuant to subsection (1) of this section shall be in writing and shall be filed with the association and with the university in a manner prescribed by the university.

(4) An election to join the association pursuant to the provisions of this section shall be in writing in the manner provided by the association and shall be filed with the association no more than thirty days after the election.

(5) If an employee fails to make an election pursuant to the provisions of this section, the employee shall be a member of the association.

(6) The university shall be solely responsible for educating employees and providing information to employees about the process provided in this section and for the administration of the process.

(7) Administrative actions or civil actions brought by employees to dispute the election for participation or failure to elect participation in the association or a university retirement plan shall commence within one hundred eighty days after the election or within one hundred eighty days after the date on which the employee may make an election to participate in such plan pursuant to this section, whichever is earlier, and not thereafter.

**Source: L. 2009:** Entire section added, (SB 09-157), ch. 146, p. 612, § 1, effective August 5.

## PART 2

### TOBACCO-RELATED AND TOBACCO-FOCUSED RESEARCH

**23-20-201. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Although federal moneys are available to fund some tobacco-related research, the settlement agreements between the tobacco companies and the states provide no funds at the national level for grants to fund the types of research outlined in this part 2;

(b) Colorado is one of the few states in the nation that provides no state funding for tobacco-related research. Taken together, the existing level of federally and privately funded tobacco-related research is insufficient to understand and prevent tobacco-related diseases.

(c) Moneys from the master settlement agreement provide Colorado with an opportunity to fund basic science, clinical, and evaluative research that would serve Coloradan's tobacco- and substance-abuse-related healthcare needs;

(d) Research funded pursuant to this part 2 is the first step in Colorado's efforts to combat effectively the long-term effects of tobacco use and substance abuse through



research that can ultimately lead to cures and other permanent solutions to tobacco- and substance-abuse-related illness and disease. Research funds also will assist in identifying effective prevention and cessation programs in Colorado. These areas of research will have positive long-term effects on Colorado communities.

(e) Creation of a dedicated research fund for tobacco-related, tobacco-focused, and substance-abuse-related research will result in an investment in research that will potentially save the state of Colorado millions of dollars in costs of providing for the health and welfare of the state's citizens;

(f) In creating a research fund for tobacco-related, tobacco-focused, and substance-abuse-related research, it is paramount to ensure that expenditures from the fund return the maximum benefit to the state of Colorado in the form of information addressing disease, illness, mental health, education, evaluation, cessation, and prevention in relation to tobacco products and substance abuse;

(g) The collaborative efforts of the state of Colorado, the federal government, private research, and other states that conduct tobacco- and substance-abuse-related research will benefit all Coloradans.

**Source: L. 2000:** Entire part added, p. 605, § 11, effective May 18.

**23-20-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Advisory committee" means the scientific advisory committee appointed by the governor pursuant to section 23-20-204.

(2) "Basic science research" means research addressing the biological, physiological, chemical, and psychological interactions between human body structures and tobacco and other drug substances in all forms.

(3) "Clinical research" means research conducted to develop effective pharmacological aids and other treatments to assist persons who use tobacco and other drug substances in any form to cease such use.

(4) "Evaluative research" means research into designing, implementing, and evaluating effective tobacco and substance abuse cessation and prevention programs that will reach those segments of the community that are most at risk of using tobacco or engaging in substance abuse.

(5) "Fund" means the university of Colorado tobacco-related research fund created in section 23-20-207.

(6) "Indirect costs" means indirect costs as defined by federal cost accounting guidelines for federally sponsored research, including but not limited to a use allowance for research facilities, heating, lighting, library services, health and safety services, project administration, and building maintenance.

(7) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research—U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(8) "Mental health research" means research into the behavioral and physiological effects of and basic behavioral causes and risk factors for tobacco and other substance addiction, and research into the effectiveness of mental health treatment for tobacco- and substance-abuse-related diseases.

(9) "Office of the president" means the office of the president of the university of Colorado.

(10) "President" means the president of the university of Colorado.

(11) "Research program" means the tobacco- and substance-abuse-related research grant program created pursuant to this part 2.

(12) "University" means the university of Colorado.

**Source: L. 2000:** Entire part added, p. 606, § 11, effective May 18.

**23-20-203. Tobacco-related research grant program - creation - eligibility - duties of office of the president.** (1) There is hereby created a comprehensive grant program to be implemented and operated by the office of the president to support mental health research and basic scientific, clinical, and evaluative research into tobacco- and substance-abuse-related disease, illness, education, evaluation, cessation, and prevention. The office of the president shall administer the program in accordance with the following principles:

(a) That all research funds shall be awarded on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality;

(b) That all qualified persons conducting research within the state, regardless of institutional affiliation, shall have equal access and opportunity to compete for funds through the research program;

(c) That the peer review process established pursuant to section 23-20-205 for the selection of grantees shall be modeled on that used by the national institutes of health in its grant-making process;

(d) That grantees shall be reimbursed for the direct and indirect costs of conducting the sponsored research consistent with federal guidelines governing all federal research grants and contracts.

(2) The office of the president may award grants under the research program to any public, private, or nonprofit agency or political subdivision of the state, including but not limited to any college, university, hospital, laboratory, research institution, county, district, or municipal public health agency, voluntary health agency, health maintenance organization, or individual who is conducting research within the state. Any agency seeking a grant under the research program shall apply to the office of the president.

(3) The office of the president shall establish a program office, including a program director and other necessary staff to administer the research program.

(4) The office of the president shall have the following duties in implementing the program:

(a) To provide overall direction and coordination of the program;

(b) To provide staff assistance to the scientific advisory committee and the peer review panels;

(c) To provide for periodic program evaluation to assure that the research that receives funding through the program is consistent with program goals and serves the people of the state of Colorado;

(d) To maintain a system of financial reporting and accountability;

(e) To provide for the systematic dissemination of research results to the public and to the health care community;

(f) To provide a mechanism to disseminate the most current research findings in the areas of tobacco and substance abuse cessation and the prevention of tobacco use and substance abuse in order that these findings may be applied to the implementation of related programs in Colorado;

(g) To develop policies and procedures to facilitate the translation of research results in commercial applications wherever appropriate.

**Source:** L. 2000: Entire part added, p. 607, § 11, effective May 18. L. 2010: (2) amended, (HB 10-1422), ch. 419, p. 2080, § 54, effective August 11.

**23-20-204. Scientific advisory committee - appointment - duties.** (1) There is hereby created a scientific advisory committee to advise the president as to the direction, scope, and progress of the research program. The advisory committee shall consist of nine members representing a range of scientific expertise and experience. The governor shall appoint the members of the advisory committee as follows:

(a) Two members who represent voluntary health organizations dedicated to the reduction of tobacco use;

(b) One member with expertise in the field of biomedical research;

(c) One member with expertise in the field of behavioral or social research;

(d) One member who represents medical or health organizations;



- (e) One member who represents a research university in Colorado;
  - (f) Two members who represent other institutions engaged in research directed at tobacco-related diseases;
  - (g) One member who represents an institution that conducts research on tobacco-related issues affecting children and youth.
- (2) The governor shall select as advisory committee members persons who are bona fide scientists fully conversant with the norms of scientific inquiry and working in this state with a Colorado-based entity. Advisory committee members shall serve at the pleasure of the governor. Advisory committee members shall serve without compensation but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.
- (3) The advisory committee shall have the following duties:
- (a) To advise the president and the program director on program priorities and emphasis;
  - (b) To advise the president and the program director on overall program budget;
  - (c) To participate in periodic program evaluation;
  - (d) To assist in developing appropriate linkages to nonacademic entities such as voluntary health organizations, health care delivery institutions, industry, government agencies, and public officials;
  - (e) To develop criteria and standards for grant awards;
  - (f) To develop administrative procedures relative to the solicitation, review, and award of grants to ensure an impartial, high-quality peer review system;
  - (g) To develop and supervise research review panels;
  - (h) To review research review panel reports and recommendations for grant awards;
  - (i) To develop and oversee mechanisms for the dissemination of research results;
  - (j) To perform such other duties as may be assigned by the president or the program director.

**Source: L. 2000:** Entire part added, p. 608, § 11, effective May 18.

**23-20-205. Peer review panels.** (1) The office of the president shall use peer review panels modeled on the national institutes of health peer review process to review all grant applications and research grants. The program director, with input from the advisory committee, shall appoint the members of peer review panels. Membership of peer review panels shall vary depending on the subject matter of proposals and review requirements. In selecting members of the panels, in order to avoid conflicts of interest and to ensure access to qualified reviewers, the program director and the advisory committee shall select from the most qualified individuals from appropriate institutions within and outside of Colorado and from within and outside the university of Colorado system.

(2) The work of the peer review panels shall be administered pursuant to policies and procedures established by the advisory committee. When serving on a peer review panel, any individual who has submitted a grant application for funding by the program shall be governed by conflict of interest provisions consistent with those adopted by the national institutes of health.

**Source: L. 2000:** Entire part added, p. 609, § 11, effective May 18.

**23-20-206. Research projects.** (1) (a) The office of the president shall award grants to fund mental health research, basic scientific research, clinical research, and evaluative research.

(b) During the first year of the research program, the office of the president shall award at least one grant to fund evaluative research for the collection of baseline demographic data on tobacco use by persons within the state. The office of the president shall ensure that the information to be collected as a result of the selected research proposal and the protocols of the research proposal are consistent with the requirements specified by the federal government to access moneys made available through the national tobacco settlement. The

evaluative research grant awarded pursuant to this paragraph (b) shall be awarded on the same competitive peer review basis as outlined in this part 2 for the awarding of other research grants.

(2) (a) Basic scientific research funded through the program may include, but is not limited to:

(I) Research conducted to find cures for tobacco- and substance-abuse-related disease and illnesses and to study the effects of second-hand smoke;

(II) Research conducted to improve the early detection and treatment of tobacco- and substance-abuse-related disease;

(III) Research conducted to understand and defeat the biological mechanisms of tobacco and other drug addictions.

(b) Clinical research funded through the program may include, but is not limited to:

(I) Research conducted into the effectiveness of using pharmacological cessation aids, such as nicotine patches and oral drugs, in the treatment of tobacco addiction, particularly with adolescents, pregnant women, and drug abusers;

(II) Research conducted to identify and improve effective strategies for tobacco addiction and substance abuse treatments.

(c) Evaluative research funded through the program may include, but is not limited to:

(I) Research conducted into the development of more effective child-related tobacco use prevention and cessation programs with the goal of developing effective, innovative curricula that can be integrated into youth programs;

(II) Research conducted to develop and improve effective health care provider-based tobacco and other drug use, cessation, and counseling programs in both in-patient and out-patient treatment settings. This includes developing medically and culturally appropriate programs to reduce tobacco use and substance abuse in higher risk patient groups, as well as counseling and other strategies to reduce the exposure, particularly of children, to second-hand smoke.

(III) Research conducted to identify and improve effective strategies for tobacco use and substance abuse prevention programs and campaigns for delivery by health care providers;

(IV) Research conducted into the development of more effective and culturally appropriate, community-based tobacco use and substance abuse prevention and cessation programs, particularly within specific population groups such as adolescents and pregnant women and within specific ethnic and low-income communities.

(3) Tobacco- and substance-abuse-related research projects that may receive funding under the program include, but are not limited to:

(a) Individual researcher-generated grants. This type of grant may be awarded to an institution on behalf of a principal researcher for a discrete project related to the researcher's interests and competence.

(b) New researcher grants. This type of grant may be awarded to an institution to support the work of promising individuals in the initial stages of their research careers.

(c) Center grants. This type of grant may be awarded to an institution on behalf of a principal researcher and a group of collaborating researchers providing support for long-term multi-disciplinary programs of research and development.

**Source: L. 2000:** Entire part added, p. 610, § 11, effective May 18.

**23-20-207. Funding of research grants - tobacco- and substance-abuse-related research fund - creation - administrative costs.** (1) (a) (I) There is hereby created in the office of the treasurer of the university of Colorado the tobacco- and substance-abuse-related research fund, which shall be under the control and administration of the board of regents of the university of Colorado in accordance with the provisions of this article. Except as otherwise provided in section 24-75-1104 (1.7) (c) or (1.8) (b), C.R.S., beginning with the 2000-01 fiscal year and ending with the 2003-04 fiscal year, the general assembly shall appropriate to the fund eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the fund in any fiscal year shall not



exceed eight million dollars. In addition, the fund shall include all interest derived from the deposit and investment of the moneys in the fund and may include moneys credited thereto from any public or private gifts, grants, or donations received by the university for the implementation of this part 2. It is the intent of the general assembly that state general fund moneys not be appropriated to provide any funding for the purposes of this part 2. The moneys in the fund shall remain under the control of the regents of the university of Colorado. Any unencumbered moneys appropriated from moneys received by the state pursuant to the master settlement agreement remaining in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5, C.R.S.

(I.5) Notwithstanding the provision of subparagraph (I) of this paragraph (a), in any year in which money is owed to a lessor under a lease-purchase agreement authorized pursuant to section 3 of House Bill 03-1256, as enacted at the first regular session of the sixty-fourth general assembly:

(A) Moneys specified in subparagraph (I) of this paragraph (a) shall first be appropriated to the capital construction fund pursuant to section 23-20-136 (3.5); and

(B) If eight percent of the total amount received by the state pursuant to the master settlement agreement, other than attorneys fees and costs, exceeds the amount of eight million dollars, the excess shall be appropriated to the fund.

(II) The general assembly shall appropriate the amount specified in this paragraph (a) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S. Notwithstanding the provisions of subparagraph (I) of this paragraph (a), for the fiscal year in which the first payment of moneys pursuant to the master settlement agreement is received, the percentage appropriated to the fund shall be calculated on the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during that fiscal year, minus thirty-three million dollars.

(b) The moneys in the fund shall be used by the board of regents of the university of Colorado for the issuance of research grants pursuant to the provisions of this part 2. In addition, the office of the president may use up to five percent of the moneys annually appropriated from the fund to offset the administrative costs incurred by the office of the president in administering the program.

(2) Research projects that receive funding under the program shall be reimbursed for actual costs, including direct and indirect costs incurred by a research institution, consistent with federal guidelines. Indirect cost rates shall not exceed those allowable by the federal government for federally sponsored research. With respect to those institutions that have not negotiated a federal indirect cost reimbursement rate, the office of the president shall request information to verify the indirect cost rates.

**Source:** **L. 2000:** Entire part added, p. 611, § 11, effective May 18. **L. 2003:** (1)(a)(I) amended, p. 465, § 9, effective March 5; (1)(a)(I.5) added, p. 1379, § 9, effective April 28; (1)(a)(I) amended, p. 2551, § 12, effective June 5; (1)(a)(I) amended, p. 2566, § 12, effective June 5. **L. 2004:** (1)(a)(I.5)(A) amended, p. 1213, § 107, effective August 4.

**Editor's note:** Amendments to subsection (1)(a)(I) by Senate Bill 03-268 and Senate Bill 03-282 were harmonized.

**Cross references:** For the legislative declaration contained in the 2003 act enacting subsection (1)(a)(I.5), see section 1 of chapter 190, Session Laws of Colorado 2003.

**23-20-208. Annual report.** (1) On or before December 1, 2000, and on or before each December 1 thereafter, the office of the president shall submit to the department of public health and environment a report concerning the research grants awarded pursuant to the research program. The department shall include said report in the annual report of programs that are funded by moneys received pursuant to the master settlement agreement prepared pursuant to section 25-1-108.5 (3), C.R.S. The report shall include the following information for each institution and organization that receives grant awards:

- (a) The number and dollar amounts of research grants received through the research program, including the amount allocated to indirect costs;
- (b) The subject of research grants by academic discipline;
- (c) The relationship between state and federal funding for tobacco- and substance-abuse-related research;
- (d) The relationship between each project and the overall strategy of the research program;
- (e) A summary of research findings;
- (f) Any recommendations for future program directions.

**Source: L. 2000:** Entire part added, p. 612, § 11, effective May 18.

## **ARTICLE 20.3**

### **Communications and Information Technology**

#### **23-20.3-101 to 23-20.3-106. (Repealed)**

**Source: L. 2000:** Entire article repealed, p. 18, § 2, effective August 2.

**Editor's note:** This article was added in 1999 and was not amended prior to its repeal in 2000. For the text of this article prior to 2000, consult the 1999 Colorado Revised Statutes.

## **ARTICLE 20.5**

### **Dental School**

23-20.5-101. Dental school tuition.

**23-20.5-101. Dental school tuition.** (1) Tuition for students enrolled in dental programs under the university of Colorado as dental hygiene, dental assistants, or dental lab technician students shall be the same as those as are established for the school of nursing. Tuition for students enrolled as dental students or dental clinical specialty students shall be established by the board of regents of the university of Colorado.

(2) (a) The regents of the university of Colorado are hereby authorized to reduce, by an amount not to exceed eighty-seven and one-half percent, the yearly tuition charged to dental students who qualify as resident students pursuant to article 7 of this title, for each such student who shall agree to practice dentistry upon graduation for one year, for each year in which a reduction is made, in an area of the state determined by the regents to be in need of additional dentists. The regents shall adopt the necessary rules, regulations, and contractual procedures necessary to implement the provisions of this subsection (2), as determined by the attorney general to be enforceable under the laws of Colorado. The provisions of this paragraph (a) apply to students enrolled in dental programs prior to September 30, 1982.

(b) The regents of the university of Colorado, in setting dental school tuition policy, shall require that, among any other requirements that may be established for graduation, a matriculated dental student who enrolls in the dental program on or after September 30, 1982, shall devote not less than one academic year to the provision of direct clinical dental services to any area or location within the state determined by the regents to be in need of additional dentists or dental services. In no event shall a dental student receive a degree from the university of Colorado in the field of dentistry unless such requirement has been fulfilled.



(c) Students enrolled in the dental program and paying tuition under the tuition policy program pursuant to the provisions of paragraph (a) of this subsection (2) may, at their option, participate in the dental program established pursuant to paragraph (b) of this subsection (2).

**Source:** L. 73: p. 163, § 3. L. 82: Entire section amended, p. 345, § 1, effective April 2.

**Cross references:** For classification of students for tuition purposes, see article 7 of this title.

## ARTICLE 21

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## PART 6

EMPLOYMENT STATUS AND  
PENSION STATUS OF  
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## PART 1

## UNIVERSITY OF COLORADO UNIVERSITY HOSPITAL

**23-21-101 to 23-21-114. (Repealed)****Source: L. 91:** Entire part repealed, p. 589, § 14, effective October 1.

**Editor's note:** (1) This part 1 was repealed in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents*, 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment to this part 1 in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

(2) This part 1 was numbered as article 4 of chapter 124, C.R.S. 1963. For amendments to this part 1 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## PART 2

## SICKLE-CELL ANEMIA TREATMENT AND RESEARCH CENTER

**23-21-201. Legislative declaration.** In order to foster the health, welfare, and safety of the people of this state and to facilitate the research and treatment of sickle-cell anemia and related diseases, it is hereby declared to be the policy of this state to achieve the maximum practical degree of care and treatment for persons suffering from this and related diseases.

**Source: L. 73:** p. 767, § 1. **C.R.S. 1963:** § 66-42-1.

**23-21-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Committee" means the sickle-cell anemia advisory committee.

(2) "Sickle-cell anemia" means an inherited blood disease caused by abnormal hemoglobin (oxygen-carrying pigment) in the red blood cells, causing the red blood cells to form a crescent or sickle shape when deprived of sufficient oxygen.

**Source: L. 73:** p. 767, § 1. **C.R.S. 1963:** § 66-42-2.

**23-21-203. Center created - committee established.** (1) There is hereby established the sickle-cell anemia treatment and research center within the university of Colorado school of medicine. Such treatment center shall use existing facilities and staff of the university of Colorado school of medicine and may establish programs for the care and treatment of persons suffering from sickle-cell anemia as they are needed. The treatment



center shall assist those persons who require continuing treatment for sickle-cell anemia but who are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital and medical insurance, medicare, medicaid, and other government assistance programs, and private charitable assistance.

(2) (a) The governor shall appoint a committee, to be known as the sickle-cell anemia advisory committee, to consult with the university of Colorado school of medicine in the administration of this part 2. The committee shall be composed of eleven members representing hospitals, voluntary agencies interested in sickle-cell anemia, medical specialists in sickle-cell anemia patient care, and the general public; but no group shall have more than four members on the committee. Each member of the committee shall hold office for a term of four years and until his successor is appointed and qualified; except that, of those members first appointed, two shall be appointed for one-year terms, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for four-year terms. Any vacancy occurring on the committee shall be filled by appointment by the governor for the unexpired term. The committee shall meet at least annually and at such other times as the executive director of the department of public health and environment deems necessary. Members of the committee shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(b) Repealed.

**Source:** L. 73: p. 767, § 1. C.R.S. 1963: § 66-42-3. L. 74: (2) amended, p. 411, § 38, effective April 11. L. 86: (2) amended, p. 413, § 22, effective March 26. L. 89: (2)(b) repealed, p. 1147, § 3, effective April 6. L. 94: (2)(a) amended, p. 2738, § 370, effective July 1.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2)(a), see section 1 of chapter 345, Session Laws of Colorado 1994.

**23-21-204. Duties of the school of medicine.** (1) It is the duty of the school of medicine, with the advice of the committee, to:

(a) Develop standards for determining eligibility for care and treatment under this part 2;

(b) Assist in the development and expansion of programs for the care and treatment of persons suffering from sickle-cell anemia, including home care and medical procedures designed to provide maximum control over the disease;

(c) Extend financial assistance to persons suffering from sickle-cell anemia to obtain efficacious agents of control for use in hospital and medical facilities and in the home;

(d) Institute and carry on educational programs for the detection of sickle-cell anemia in the community and for the counseling of individuals and families;

(e) Conduct educational programs for physicians, hospitals, county and district public health agencies, and the public concerning the methods of care and treatment for persons suffering from the disease;

(f) Establish research programs to promote scientific inquiry into the causes and the possible cure or alleviation of the suffering of victims of sickle-cell anemia.

**Source:** L. 73: p. 768, § 1. C.R.S. 1963: § 66-42-4. L. 2010: (1)(e) amended, (HB 10-1422), ch. 419, p. 2080, § 55, effective August 11.

## PART 3

### HEMOPHILIA TREATMENT CENTER

**23-21-301. Legislative declaration.** In order to foster the health, welfare, and safety of the people of this state and to facilitate the research and treatment of hemophilia and related

diseases, it is hereby declared to be the policy of this state to achieve the maximum practical degree of care and treatment for persons suffering from hemophilia and other related diseases.

**Source: L. 73:** p. 770, § 1. **C.R.S. 1963:** § 66-43-1.

**23-21-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Committee" means the hemophilia advisory committee.

(2) "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency factor in the blood.

**Source: L. 73:** p. 770, § 1. **C.R.S. 1963:** § 66-43-2.

**23-21-303. Center created - committee established.** (1) There is hereby established the hemophilia treatment center within the university of Colorado school of medicine. Such treatment center shall use existing facilities and staff of the university of Colorado school of medicine and may establish programs for the care and treatment of persons suffering from hemophilia as they are needed. The hemophilia treatment center shall assist those persons who require continuing treatment with blood, blood derivatives, or a manufactured pharmaceutical product to avoid crippling, hospitalization, or other effects associated with hemophilia but who are unable to pay for the entire cost of such services on a continuing basis despite the existence of various types of hospital and medical insurance, medicare, medicaid, other government assistance programs, and private charitable assistance.

(2) (a) The governor shall appoint a committee to consult with the school of medicine in the administration of this part 3. The committee shall be composed of eleven members representing hospitals, voluntary agencies interested in hemophilia, medical specialists in hemophilia patient care, and the general public; but no group shall have more than four members on the committee. Each member of the committee shall hold office for a term of four years and until his successor is appointed and qualified; except that, of those members first appointed, two shall be appointed for one-year terms, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for four-year terms. Any vacancy occurring on the committee shall be filled by appointment by the governor for the unexpired term. The committee shall meet at least annually and at such other times as the governor deems necessary. Members of the committee shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(b) Repealed.

**Source: L. 73:** p. 770, § 1. **C.R.S. 1963:** § 66-43-3. **L. 86:** (2) amended, p. 413, § 23, effective March 26. **L. 89:** (2)(b) repealed, p. 1147, § 3, effective April 6.

**23-21-304. Duties of the school of medicine.** (1) It is the duty of the school of medicine, with the advice of the committee, to:

(a) Develop standards for determining eligibility for care and treatment under this part 3;

(b) Assist in the development and expansion of programs for the care and treatment of persons suffering from hemophilia, including home care and medical and dental procedures designed to provide maximum control over bleeding;

(c) Extend financial assistance to persons suffering from hemophilia to obtain blood, blood derivatives and concentrates, and other efficacious agents for use in hospital, medical, and dental facilities and in the home;

(d) Institute and carry on educational programs for the detection of hemophilia in the community and for the counseling of individuals and families;

(e) Conduct educational programs for physicians, dentists, hospitals, county or district public health agencies, and the public concerning the methods of care and treatment for persons suffering from hemophilia.



**Source:** L. 73: p. 771, § 1. C.R.S. 1963: § 66-43-4. L. 2010: (1)(e) amended, (HB 10-1422), ch. 419, p. 2081, § 56, effective August 11.

#### PART 4

### OPERATION OF UNIVERSITY HOSPITAL

#### 23-21-401 to 23-21-411. (Repealed)

**Source:** L. 91: Entire part repealed, p. 589, § 14, effective October 1.

**Editor's note:** (1) This part 4 was enacted in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, authorizing the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents*, 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to repeal this part 4 in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

(2) This part 4 was added in 1989. For amendments to this part 4 prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

#### PART 5

### UNIVERSITY OF COLORADO HOSPITAL AUTHORITY

**23-21-501. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The mission of the university of Colorado university hospital is to facilitate and support the education, research, and public service activities of the health sciences schools operated by the regents of the university of Colorado and to provide patient care, including care for the medically indigent, and specialized services not widely available elsewhere in the state and region;

(b) In order to provide for the education and training of health care professionals, to provide a clinical setting for biomedical research, to ensure the availability of quality patient care including specialized medical services not otherwise widely available, and to provide for the care and treatment of the medically indigent, it is necessary that the university of Colorado university hospital be a facility of the finest possible quality;

(c) The present university of Colorado university hospital is unable to become and remain economically viable due to constraints imposed by being subject to various kinds of government policy and regulation;

(d) Unless the university of Colorado university hospital can become and remain economically viable, it will become ever more dependent upon state subsidies, and the quality of medical service and education will inevitably decline;

(e) The needs of the citizens of the state of Colorado and of the university of Colorado health sciences schools will be best served if the university of Colorado university hospital is operated by a quasi-governmental and corporate entity charged with the mission of operating a teaching hospital for the benefit of the health sciences schools and providing care for the medically indigent;

(f) Subject to the provisions of section 25.5-3-102 (2), C.R.S., the authority to be created pursuant to this part 5 to operate the university of Colorado university hospital by receiving its assets and operating obligations shall continue to subsidize the costs of delivering medically indigent care in excess of the state reimbursement for the medically indigent. Consistent with the university of Colorado university hospital's past policy and

performance, the authority will make every reasonable effort to continue the hospital's historic commitment to the provision of uncompensated care and shall allocate and invest its resources with a view to maximizing the hospital's long-term ability to provide uncompensated care.

**Source: L. 91:** Entire part added, p. 556, § 2, effective June 1. **L. 2006:** (1)(f) amended, p. 2006, § 66, effective July 1.

**23-21-502. Definitions.** As used in this part 5 and part 6 of this article, unless the context otherwise requires:

(1) "Authority" means the political subdivision and body corporate called the university of Colorado hospital authority created by this part 5.

(2) "Board of directors" means the board of directors of the authority.

(3) "Health sciences schools" means the schools of medicine, dentistry, nursing, pharmacy, and any other schools operated by the regents of the university of Colorado at the university health sciences center.

(4) "Hospital assets" means all property or rights in property, real and personal, tangible and intangible existing on the transfer date under this part 5, used by or accruing to university hospital in the normal course of its operations as a teaching, research, and medical treatment facility.

(5) "Hospital liabilities" means all debts or other obligations, contingent or certain, owing on the transfer date under this part 5 to any person or other entity arising out of the operation of university hospital as a medical treatment facility, and including, without limitation, all debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

(6) "Part 4 corporation" means the nonprofit-nonstock corporation created on July 24, 1989, to operate university hospital.

(7) "PERA" means the public employees' retirement association created in part 2 of article 51 of title 24, C.R.S.

(8) "Regents" means the board of regents of the university of Colorado.

(9) "State employee" means a person employed by the state whether or not a classified employee in the state personnel system.

(10) "Transfer date under this part 5" or "authority's transfer date" means a date agreed to by the regents and the authority for the transfer of hospital assets to and the assumption of hospital liabilities by such authority.

(11) "University hospital" means the hospital and clinics created and operated by the regents of the university of Colorado under section 5 of article VIII of the Colorado constitution.

**Source: L. 91:** Entire part added, p. 557, § 2, effective June 1.

**23-21-503. University of Colorado hospital authority.** (1) There is hereby created the university of Colorado hospital authority, which shall be a body corporate and a political subdivision of the state, which shall not be an agency of state government, and which shall not be subject to administrative direction or control by the regents or by any department, commission, board, bureau, or agency of the state.

(2) The authority shall be governed by an eleven-member board of directors who shall be appointed by the regents. The board of directors shall control the day-to-day operation of university hospital. There shall be a director appointed from each congressional district. One director shall reside west of the continental divide, and not more than four directors shall be employees of the university of Colorado or of the authority. The appointment of the directors from the congressional districts shall be subject to the advice and consent of the senate. Of the directors first appointed, four shall serve terms of two years and five shall serve terms of four years. Nothing in this subsection (2) shall be construed to limit the power of the regents to appoint persons as directors of the authority who are directors of the part 4 corporation. Each director appointed from a congressional district, whether appointed



for an unexpired term or a full term, shall be deemed duly appointed and qualified until the appointment of the director is approved or rejected by the senate. If the general assembly is not in regular session at the time the appointment is made or is in regular session but does not consider the appointment before adjourning, the appointment shall be submitted to the senate for its approval or rejection during the next regular session of the general assembly following the appointment.

(3) Each member of the board of directors shall hold office for such member's term and until a successor is appointed and qualified. Any member shall be eligible for reappointment, but members shall not be eligible to serve more than two consecutive full terms. Members of the board shall receive no compensation for such services but shall be reimbursed for their necessary expenses while serving as a member of the board. Any vacancy shall be filled by the regents.

(4) Any member of the board of directors may be removed by the regents for malfeasance in office, failure to regularly attend meetings, or for any cause which renders said member incapable of or unfit to discharge the duties of director.

(5) No part of the revenues or assets of the authority shall inure to the benefit of, or be distributed to, its board of directors or officers or any other private person or entity; except that the authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the authority shall be authorized and empowered to pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes.

(6) The authority and its corporate existence shall continue until terminated by law; except that no such law shall take effect so long as the authority has bonds, notes, or other obligations outstanding, unless adequate provision has been made for the payment thereof.

**Source:** L. 91: Entire part added, p. 558, § 2, effective June 1. L. 2008: (2) amended, p. 28, § 1, effective August 5.

**Cross references:** For the provisions that designate the university of Colorado hospital authority as a "special purpose authority" for the purposes of section 20 of article X of the Colorado constitution, see § 24-77-102 (15).

#### ANNOTATION

**In prior section university of Colorado's university hospital was held to be public, not private, institution** despite operation by "private" corporation, where hospital was established by Regents pursuant to authority granted in Constitution and hospital's budget and spend-

ing remained under Regents' control following reorganization. Colorado Ass'n of Pub. Employees v. Bd. of Regents, 804 P.2d 138 (Colo. 1990) (decided prior to the 1991 repeal of § 23-21-401 et seq.).

**23-21-504. Mission of the authority - obligation to provide uncompensated care - action of the board of directors.** (1) The mission of the authority shall be the operation of university hospital as a state of the art teaching and research hospital providing comprehensive medical care, including tertiary care, and patient care of limited availability. The authority shall also provide space and facilities as necessary for the operation of the clinical programs of the health sciences schools at the health sciences center together with the university of Colorado psychiatric hospital, and, subject to the provisions of section 25.5-3-102 (2), C.R.S., the provision of medical care to those eligible for payment assistance through any program for the benefit of the medically indigent. For every three dollars of moneys appropriated by the general assembly that is distributed to the authority for the state medically indigent program, the authority shall provide four dollars worth of medically indigent care.

(2) The board of directors shall award hospital privileges only to health care providers who are faculty members of the health sciences schools of the university of Colorado.

(3) The board of directors shall not transfer the authority's assets or the hospital's assets to any person or entity except the regents.

(4) Upon the dissolution of the authority, all assets of the authority, after the satisfaction of creditors, shall revert to the regents.

(5) The business activities of the authority, including any joint ventures, shall be primarily in furtherance or in support of the mission of the hospital as the same is specified in subsection (1) of this section.

**Source: L. 91:** Entire part added, p. 560, § 2, effective June 1. **L. 2006:** (1) amended, p. 2006, § 67, effective July 1.

**23-21-505. Authorization for transfer of hospital assets and liabilities to authority.**

(1) Following the creation of the authority and on the transfer date under this part 5, the regents shall have the authority to lease, convey, or otherwise transfer to the authority some or all hospital assets, except land which may be leased to the authority for a term not to exceed ninety-nine years. Any such lease, conveyance, or transfer shall be on such terms as may be approved by the regents and in consideration of the authority's agreement to assume the hospital liabilities and to continue to support the education, research, patient care, care to the medically indigent, and public service activities of the university of Colorado.

(2) Any transfer of hospital assets to the authority pursuant to this section shall be conditioned upon the existence of a binding agreement between the regents and the authority which provides that, effective on the transfer date under this part 5 and thereafter, the authority shall assume responsibility for and shall defend, indemnify, and hold harmless the regents and the state and the part 4 corporation and its officers and directors with respect to:

(a) All liabilities and duties of the regents pursuant to contracts, agreements, and leases for commodities, services, and supplies utilized by university hospital, including real property leases;

(b) All claims related to the employment relationship between employees of the authority and the authority on and after the transfer date under this part 5;

(c) All claims for breach of contract resulting from the authority's action or failure to act on and after the transfer date under this part 5;

(d) All claims related to the authority's errors and omissions including, but not limited to: Medical malpractice; directors and officers liability; workers' compensation; automobile liability; and premises, completed operations, and products liability; and

(e) All claims related to the part 4 corporation's errors and omissions prior to the transfer date under this part 5, including, but not limited to: Medical malpractice; directors and officers liability; workers' compensation; automobile liability; and premises, completed operations, and products liability.

(3) Any transfer of hospital assets to the authority shall be further conditioned upon the existence of a binding agreement between the regents and the authority by which the authority shall accept and agree to abide by the provisions set forth in section 23-21-504 concerning the mission of the authority, the provisions in sections 23-21-507 and 23-21-508, and the provisions of part 6 of this article concerning employees of university hospital, the part 4 corporation, and the authority.

**Source: L. 91:** Entire part added, p. 560, § 2, effective June 1.

**23-21-506. Relationship between authority and regents.** (1) Following the creation of the authority and on the transfer date under this part 5, and except for the power of the regents to appoint members of the board of directors, the regents shall have no further control over the operation of university hospital but shall be authorized to:

(a) At such future date as the regents shall determine it to be necessary and for the purpose of preserving the certification of the university of Colorado psychiatric hospital and eligibility for federal funds thereunder, transfer some or all of the assets of the university of Colorado psychiatric hospital to the authority operating university hospital pursuant to the provisions of this article; except that the director of the university of Colorado psychiatric hospital shall at all times be a professor of psychiatry in the school of medicine



of the university of Colorado. The transfer of assets of the university of Colorado psychiatric hospital shall be conditional upon the provision of retirement benefits and the protection of accrued sick leave and annual leave under sections 23-21-507 and 23-21-508 for state employees of the psychiatric hospital who become employees of the authority.

(b) Notwithstanding the provisions of the "Procurement Code", articles 101 through 112 of title 24, C.R.S., enter into contracts with the authority for the provision of goods, services, and facilities in support of programs of the university of Colorado; except that moneys paid to either the regents or the authority under said contracts shall not exceed a reasonable estimate of actual cost of the goods, services, or facilities.

(c) In the regents' discretion, provide the authority and its employees with medical malpractice liability coverage from any self-insurance trust fund established pursuant to section 24-10-115, C.R.S., or any other provision of state law, or through such other fund or mechanism which may be available for the provision of such coverage by the regents to university of Colorado employees, at such cost as would be actuarially sound.

**Source: L. 91:** Entire part added, p. 561, § 2, effective June 1.

**23-21-507. Personnel.** (1) Any employee of university hospital who is a state employee on the transfer date under this part 5 may elect to remain a state employee or become an employee of the authority. Said employee may elect to become an employee of the authority at any time but shall not thereafter return to state employment status while employed by the authority. No state employee shall be discriminated against in training, promotion, retention, assignment of duties, granting of rights and benefits, or any other personnel action. Promotion or a change in position shall not be contingent upon the employee becoming an employee of the authority.

(2) Any employee who elects to remain a state employee shall retain all rights and privileges of the state employment status which is applicable to such employee's position.

(3) In the case of any dispute involving an employee who is a member of the state personnel system, university hospital and the authority shall agree to accept resolution of all disciplinary appeals or other employment disputes governed by the statutes of the state personnel system or the rules of the state personnel department according to the rules and procedures applicable to members of the state personnel system.

(4) Any employee who elects to become an employee of the authority shall receive full credit for sick leave and annual leave accrued while employed by university hospital.

(5) Any employee initially employed by the authority operating university hospital pursuant to this part 5 on or after the transfer date under this part 5 shall be deemed to be an employee of the authority created under this part 5 and not a state employee.

(6) The authority is authorized to contract with the university of Colorado health sciences center through the state personnel board pursuant to section 13 (4) of article XII of the state constitution for personnel.

**Source: L. 91:** Entire part added, p. 562, § 2, effective June 1.

#### ANNOTATION

**Prior section on this subject held unconstitutional** under art. XII, sec. 13 of state constitution where university hospital employees could keep their jobs at reorganized hospital only by giving up rights and guarantees of state

personnel system. *Colorado Ass'n of Pub. Employees v. Bd. of Regents*, 804 P.2d 138 (Colo. 1990) (decided under § 23-21-406 prior to the 1991 repeal of § 23-21-401 et seq.).

**23-21-508. Retirement benefits - rights of former state employees - PERA membership.** (1) Any employee initially employed by the authority on and after the transfer date under this part 5 shall be eligible for membership in the authority's qualified retirement plan.

(2) (a) Any employee of university hospital who was a member of PERA on the transfer date under this part 5 and who elects to become an employee of the authority

pursuant to section 23-21-507 (1) shall have such employee's active membership in PERA terminated and shall be provided retirement benefits in accordance with this subsection (2).

(b) Any employee of university hospital who elects to become an employee of the authority, and who has less than five years of service credit at the time such employee's active membership in PERA was terminated, may elect to have such employee's member contributions to PERA credited to the authority's qualified retirement plan. Any employee who so elects shall receive from the authority, upon retirement, a benefit which, when combined with social security, is at least equal to the benefit such employee would have received from PERA if such employee had continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5. Any employee who elects not to have such employee's member contributions credited to the authority's qualified retirement plan shall be entitled only to those retirement benefits provided in accordance with such plan.

(c) (I) Any employee of university hospital who elects to become an employee of the authority, and who has five or more years of service credit at the time such employee's active membership in PERA was terminated, may elect either to become a vested inactive member of PERA or to have such employee's member contributions to PERA credited to the authority's qualified retirement plan.

(II) Any employee who becomes a vested inactive member of PERA shall receive from the authority, upon retirement, a benefit which, when combined with social security and the PERA retirement benefit earned by the employee, is at least equal to the benefit such employee would have received from PERA had such employee continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5.

(III) Any employee who elects to have all member contributions credited to the authority's qualified retirement plan shall receive from the authority, upon retirement, a benefit which, when combined with social security, is at least equal to the benefit such employee would have received from PERA if such employee had continued to earn PERA service credit until retirement or the date upon which the employee ceases to be an employee of the authority. The calculation of such benefit shall be based upon the PERA benefit plan in effect on the transfer date under this part 5.

(IV) The discretion granted to an employee of the corporation by this subsection (2) to elect either vested inactive status in PERA or the crediting of the employee's member contributions to the authority's qualified retirement plan shall not be limited or abridged as a condition of employment or promotion by the authority.

(d) An employee of university hospital who becomes an employee of the authority and whose member contributions in PERA are credited to the authority's qualified retirement plan shall be eligible to purchase service credit for previous employment at university hospital only pursuant to the terms of section 24-51-505, C.R.S.

(3) (a) As soon as practicable after the transfer date under this part 5, and again on each annual anniversary of such transfer date, the board of trustees of PERA shall determine the amount of reserves required to provide benefits and health care to former employees of university hospital who are benefit recipients or vested inactive members of PERA as provided in article 51 of title 24, C.R.S. The amount of reserves required shall be determined by the board of trustees utilizing certified actuarial reports prepared by the board's actuary.

(b) If the amount of reserves on deposit in the state division trust fund of PERA to provide such benefits and health care, as calculated by the actuary, exceeds the amount of reserves required pursuant to paragraph (a) of this subsection (3), then the excess amount shall be paid to a retirement trust established by the authority as further provided in this subsection (3). Such payment shall be made if the actuarial report certifies that the payment will not have an adverse impact on the actuarial soundness of the state division trust fund or the PERA health care trust fund. If the actuary determines, in accordance with accepted actuarial principles, that the payment provided by this paragraph (b) will have an adverse impact on the actuarial soundness of these funds, the payment shall not be permitted.



(c) Not later than one hundred twenty days following the transfer date under this part 5, and again not later than one hundred twenty days following each anniversary date of such transfer date, the board of trustees of PERA shall pay to a retirement trust established by the authority any moneys payable pursuant to paragraph (b) of this subsection (3) together with all member contributions, not previously paid, of all employees electing to have their member contributions credited to the authority's qualified retirement plan pursuant to subsection (2) of this section. PERA shall include interest on such payment for the period from the transfer date under this part 5, or subsequent anniversary of such transfer date, to the date of payment at the rate specified for members in section 24-51-101 (28), C.R.S.

(d) All expenses incurred by the board of trustees of PERA for the preparation of actuarial reports pursuant to paragraph (b) of this subsection (3) shall be paid by the authority. Such expenses shall be deducted from any amounts transferred pursuant to paragraph (c) of this subsection (3). Any actuarial reports prepared pursuant to this subsection (3) shall be made available to the authority upon request.

**Source:** L. 91: Entire part added, p. 563, § 2, effective June 1. L. 93: (3)(b) amended, p. 481, § 14, effective March 1, 1994. L. 97: (3)(b) amended, p. 778, § 17, effective July 1. L. 2004: (3)(b) amended, p. 1938, § 1, effective January 1, 2006.

**23-21-509. Status of part 4 corporation - effect of actions taken by part 4 corporation - validation of certain actions.** (1) It is the intent of the general assembly in enacting this section to address the status of the part 4 corporation, and actions taken by such corporation on and after October 1, 1989, as said status and actions relate to the operation of university hospital by the authority. Nothing in this section shall be construed to affect any litigation concerning the part 4 corporation.

(2) The hospital assets and hospital liabilities which existed on September 30, 1989, and which were transferred by the regents to the part 4 corporation on October 1, 1989, shall be transferred to the authority in accordance with the provisions of this part 5.

(3) Any indebtedness or other obligations incurred by the part 4 corporation between October 1, 1989, and the transfer date under this part 5 shall be assumed by the authority on such transfer date.

(4) Any assets acquired by the part 4 corporation between October 1, 1989, and the transfer date under this part 5 may be transferred to the authority on such transfer date.

(5) Any contract, lease, license agreement, credit agreement, or similar business transaction entered into by the part 4 corporation between October 1, 1989, and the transfer date under this part 5 may be ratified by the authority on or after said transfer date. The ratification of any such transaction shall be in the sole discretion of the authority.

(6) The employees of the part 4 corporation shall be subject to the provisions of part 6 of this article with respect to the employment status and pension status of such employees.

(7) The transfer of moneys from PERA to a qualified retirement plan provided by the part 4 corporation on or after October 1, 1989, is declared to be a valid transfer. The status of the part 4 corporation's qualified retirement plan shall be as provided in section 23-21-604.

(8) The part 4 corporation shall cooperate with the authority in accomplishing the purposes of this section and the remaining provisions of this part 5 and in accomplishing the purposes of part 6 of this article.

**Source:** L. 91: Entire part added, p. 566, § 2, effective June 1.

**23-21-510. Records of board of directors.** All resolutions and orders shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board of directors. Every legislative act of the board of directors of a general or permanent nature shall be by resolution. The book of resolutions, orders, other proceedings of the board of directors, minutes of the meetings, annual reports and monthly financial statements, certificates, contracts and any financial agreements, and bonds given by officers, employees, and any other agents of the authority, and any personnel reports, guidelines, manuals,

handbooks, other than individual personnel files shall be a public record as defined in section 24-72-202 (6), C.R.S., and subject to the provisions of part 2 of article 72 of title 24, C.R.S. The account of all moneys received by and disbursed on behalf of the authority shall also be a public record. All records shall be subject to the uniform budget and audit laws and shall be subject to regular audit as provided therein; except that the audit of the authority shall be on a fiscal year that begins on July 1 and ends on June 30. Notwithstanding any provision of this section to the contrary, all writings and other records concerning the modification, initiation, or cessation of patient care programs shall not be deemed to be a public record and shall not be subject to the provisions of this section if premature disclosure of information contained in such writings or other records would give an unfair competitive or bargaining advantage to any person or entity.

**Source: L. 91:** Entire part added, p. 567, § 2, effective June 1.

**23-21-511. Meetings of board of directors.** All meetings of the board of directors shall be subject to the provisions of section 24-6-402, C.R.S. No business of the board of directors shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present. Any action of the board of directors shall require the affirmative vote of a majority of the total membership of the board.

**Source: L. 91:** Entire part added, p. 567, § 2, effective June 1.

**23-21-512. Disclosure of interests required.** Any member of the board of directors and any employee or other agent or adviser of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority. This interest shall be set forth in the minutes of the authority, and no director, employee, or other agent or adviser having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that the provisions of this section shall not be construed to prohibit any employee of the university of Colorado who is a member of the board of directors, who has no personal interest, from voting on the authorization of any such contract or transaction between the authority and the regents.

**Source: L. 91:** Entire part added, p. 567, § 2, effective June 1.

**23-21-513. General powers of the authority.** (1) In addition to any other powers granted to the authority in this part 5, the authority shall have the following powers:

- (a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;
- (b) To have perpetual existence and succession;
- (c) To adopt, have, and use a seal and to alter the same at its pleasure;
- (d) To sue and be sued;
- (e) To enter into any contract or agreement not inconsistent with this part 5 or the laws of this state and to authorize the executive director to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this part 5 and to secure the payment of bonds;
- (f) To borrow money and to issue bonds evidencing the same;
- (g) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange, or otherwise acquire real property or any interest therein and to maintain, hold, improve, mortgage, lease, and otherwise transfer such real property, so long as such transactions do not interfere with the mission of the authority as specified in section 23-21-504;
- (h) To acquire space, equipment, services, supplies, and insurance necessary to carry out the purposes of this part 5;



(i) To deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized in section 24-75-603, C.R.S., and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the moneys of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board of directors requires;

(j) To contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this part 5, with the terms and conditions thereof;

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 5, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5;

(l) To fix the time and place or places at which its regular and special meetings are to be held. Meetings shall be held on the call of the presiding officer, but no less than eight meetings shall be held annually.

(m) To adopt and from time to time amend or repeal bylaws and rules and regulations consistent with the provisions of this part 5; except that article 4 of title 24, C.R.S., shall not apply to the promulgation of any policies, procedures, rules, or regulations of the authority;

(n) To appoint one or more persons as secretary and treasurer of the board and such other officers as the board of directors may determine and provide for their duties and terms of office; except that the president of the university of Colorado shall designate the director who shall be the presiding officer of the board of directors;

(o) To appoint an executive director and such agents, employees, and professional and business advisers as may from time to time be necessary in its judgment to accomplish the purposes of this part 5, to fix the compensation of such executive director, employees, agents, and advisers, and to establish the powers and duties of all such agents, employees, and other persons contracting with the authority;

(p) To waive, by such means as the authority deems appropriate, the exemption from federal income taxation of interest on the authority's bonds, notes, or other obligations provided by the "Internal Revenue Code of 1986", as amended, or any other federal statute providing a similar exemption;

(q) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this part 5, including but not limited to contracts with any person, firm, corporation, municipality, state agency, county, or other entity. All municipalities, counties, and state agencies are hereby authorized to enter into and do all things necessary to perform any such arrangement or contract with the authority.

(r) To arrange for guaranties or insurance of its bonds, notes, or other obligations by the federal government or by any private insurer, and to pay any premiums therefor.

**Source:** L. 91: Entire part added, p. 568, § 2, effective June 1. L. 2011: (1)(n) amended, (HB 11-1164), ch. 116, p. 363, § 1, effective April 20.

**23-21-514. Bonds and notes.** (1) (a) The authority has the power and is authorized to issue from time to time its notes and bonds in such principal amounts as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, the establishment of reserves to secure such notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) (I) The authority has the power, from time to time, to issue:

(A) Notes to renew notes;

(B) Bonds to pay notes, including the interest thereon, and, whenever it deems refunding expedient, to refund any bonds whether the bonds to be refunded have or have not matured; and

(C) Bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

(II) Refunding bonds issued pursuant to this paragraph (b) may be exchanged for the bonds to be refunded or sold and the proceeds applied to the purchase, redemption, or payment of such bonds.

(c) The authority has the power to provide for the replacement of lost, destroyed, or mutilated bonds or notes.

(d) Except as may otherwise be expressly provided by the authority, every issue of its notes and bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular revenues.

(2) The notes and bonds shall be authorized by a resolution adopted by an affirmative vote of a majority of the members of the board of directors.

(3) Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging all or any part of the revenues of the authority to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with noteholders or bondholders as may then exist;

(b) Pledging all or any part of the assets of the authority to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist, such assets to include any grant or contribution from the federal government or any corporation, association, institution, or person;

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(d) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(e) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds;

(f) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) Limitations on the amount of moneys to be expended by the authority for operating expenses of the authority;

(h) Vesting in a trustee such property, rights, powers, and duties in trust as the authority may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this part 5, and limiting or abrogating the right of the bondholders to appoint a trustee under this part 5 or limiting the rights, powers, and duties of such trustee;

(i) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; except that such rights and remedies shall not be inconsistent with the general laws of this state and the other provisions of this part 5;

(j) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(4) The bonds or notes of each issue may, in the discretion of the board of directors, be made redeemable before maturity at such prices and under such terms and conditions as may be determined by the board of directors. Notes shall mature at such time as may be determined by the board of directors, and bonds shall mature at such time, not exceeding thirty-five years from their date of issue, as may be determined by the board. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at such rate, be in such denominations, be in such form, either coupon or registered, carry such registration



privileges, be executed in such manner, be payable in such medium of payment and at such place, and be subject to such terms of redemption as such resolution may provide. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price as the board of directors shall determine.

(5) In case any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached thereto ceases to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The board of directors may also provide for the authentication of the bonds or notes by a trustee or fiscal agent.

(6) Prior to the preparation of definitive bonds or notes, the authority may, under like restrictions, issue interim receipts or temporary bonds or notes until such definitive bonds or notes have been executed and are available for delivery.

(7) The authority, subject to such agreements with noteholders or bondholders as may then exist, has the power out of any funds available therefor to purchase notes or bonds of the authority, which shall thereupon be cancelled at a price not exceeding:

(a) If the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon; or

(b) If the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

(8) In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without this state. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all moneys. The authority may provide by such trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the authority. If the bonds are secured by a trust indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

(9) The authority shall not have outstanding, at any one time, bonds, not including bond anticipation notes, or bonds which have been refunded, in an aggregate principal amount exceeding sixty million dollars; however, this limitation shall not apply to bonds which are unsecured or secured solely by a pledge of the revenues of the authority and are not in any way secured by a pledge of any of the authority's other assets, including, without limitation, any buildings or real property, and which contain a statement that the bondholders shall not have any recourse against the authority's other assets for repayment of the bonds. Under no circumstances shall the regents or the state of Colorado be liable for any indebtedness incurred by the authority. The general assembly specifically finds there is a substantial public purpose in limiting the indebtedness of the authority in the event the authority assets or the hospital assets are transferred back to or revert to the regents.

(10) The authority has the power and is authorized to issue from time to time notes, bonds, and other securities which may be collateralized or otherwise secured in whole or in part by loans or participations or other interests in such loans or which may evidence loans or participations or other interests in such loans to provide net funds that are to be dedicated in whole or in part by resolution of the authority to the carrying out of one or more of the purposes of the authority. The interest on or from such notes, bonds, and other securities may be subject to or exempt from federal income taxation.

(11) Any notes, bonds, or other securities issued pursuant to this section, and the income therefrom, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

## ANNOTATION

**Prior section on this subject held unconstitutional** under art. XI, sec. 3 of state constitution where validity of debt financing scheme was premised upon allegedly "private" status of hospital which in fact remained a public entity. *Colorado Ass'n of Pub. Employees v. Bd. of Regents*, 804 P.2d 138 (Colo. 1990) (decided prior to the 1991 repeal of § 23-21-401 et seq.).

Severability clause could not preserve remainder of statutory scheme where debt financ-

ing provisions were inextricably intertwined with invalid provisions for reorganization and continued operation of public hospital as "private" entity. *Colorado Ass'n of Pub. Employees v. Bd. of Regents*, 804 P.2d 138 (Colo. 1990) (decided prior to the 1991 repeal of § 23-21-401 et seq.).

**23-21-515. Remedies.** Any holder of bonds issued under the provisions of this part 5, or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights under this part 5 may be restricted by such trust agreement or resolution, may, either at law or in equity by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted under this part 5 or under such agreement or resolution, or under any other contract executed by the authority pursuant to this part 5, and may enforce and compel the performance of all duties required by this part 5 or by such trust agreement or resolution to be performed by the authority or by an officer thereof.

**Source: L. 91:** Entire part added, p. 574, § 2, effective June 1.

**23-21-516. Negotiable instruments.** Notwithstanding any of the foregoing provisions of this part 5 or any recitals in any bonds issued under the provisions of this part 5, all such bonds and interest coupons appertaining thereto shall be negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

**Source: L. 91:** Entire part added, p. 574, § 2, effective June 1.

**23-21-517. Bonds eligible for investment.** Bonds issued under the provisions of this part 5 are hereby made securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

**Source: L. 91:** Entire part added, p. 574, § 2, effective June 1.

**23-21-518. Refunding bonds.** (1) The board of directors may provide for the issuance of refunding obligations of the authority for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this part 5, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations, and for any corporate purpose of the authority.

(2) Refunding obligations issued as provided in subsection (1) of this section may be sold or exchanged for outstanding obligations issued under this part 5, and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, the accrued interest, and any redemption premium on the



obligations being refunded and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

**Source: L. 91:** Entire part added, p. 575, § 2, effective June 1.

**23-21-519. Nonliability of state for bonds.** Neither the state of Colorado nor the regents shall be liable for bonds of the authority, and such bonds shall not constitute a debt of the state or of the regents. The bonds shall contain on the face thereof a statement to such effect.

**Source: L. 91:** Entire part added, p. 575, § 2, effective June 1.

**23-21-520. Members of authority not personally liable on bonds.** Neither the members of the board of directors nor any authorized person executing bonds issued pursuant to this part 5 shall be personally liable for such bonds by reason of the execution or issuance thereof.

**Source: L. 91:** Entire part added, p. 576, § 2, effective June 1.

**23-21-521. Annual report.** The authority shall submit to the governor and the joint budget committee within six months after the end of the fiscal year a report which shall set forth a complete and detailed operating and financial statement of the authority during such year. Also included in the report shall be any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the authority.

**Source: L. 91:** Entire part added, p. 576, § 2, effective June 1. **L. 99:** Entire section amended, p. 852, § 12, effective May 24.

**23-21-522. Powers of the authority - investments.** (1) The authority has the power:

(a) To invest any funds not required for immediate disbursement in property or in securities which meet the standard for investments established in section 15-1-304, C.R.S., provided such investment assists the authority in carrying out its public purposes; and to sell from time to time such securities thus purchased and held; and to deposit any securities in any trust bank within or without the state. Any funds deposited in a banking institution or in any depository authorized in section 24-75-603, C.R.S., shall be secured in such manner and subject to such terms and conditions as the board may determine, with or without payment of any interest on such deposit, including, without limitation, time deposits evidenced by certificates of deposit. Any commercial bank incorporated under the laws of this state which may act as depository of any funds of the authority may issue indemnifying bonds or may pledge such securities as may be required by the board of directors.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), to contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of notes or bonds and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits.

**Source: L. 91:** Entire part added, p. 576, § 2, effective June 1.

**23-21-523. Agreement of this state.** This state does hereby pledge to and agree with the holders of any notes or bonds issued under this part 5 that this state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the said holders thereof or in any way impair the rights and remedies of such holders until such notes and bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of this state in any agreement with the holders of such notes or bonds.

**Source: L. 91:** Entire part added, p. 577, § 2, effective June 1.

**23-21-524. This part 5 not a limitation of powers.** Nothing in this part 5 shall be construed as a restriction or limitation upon any other powers which the authority might otherwise have under any other law of this state, and this part 5 is cumulative to any such powers. This part 5 does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes, and other obligations and refunding bonds under the provisions of this part 5 need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval shall be required for the issuance of any bonds, notes, or other obligations or any instrument as security therefor, except as is provided in this part 5.

**Source: L. 91:** Entire part added, p. 577, § 2, effective June 1.

**23-21-525. Exemption from property taxation.** The authority shall be exempt from any general ad valorem taxes upon any property of the authority acquired and used for its public purposes. The authority may enter into agreements to pay annual sums in lieu of taxes to any county, municipality, or other taxing entity with respect to any real property which is owned by the authority and is located in such county, municipality, or other taxing entity.

**Source: L. 91:** Entire part added, p. 577, § 2, effective June 1.

**23-21-526. Psychiatric hospital.** The university of Colorado psychiatric hospital established under article 22 of this title shall remain the integrated psychiatric service for university hospital, and the department of public health and environment shall issue a single license for the university of Colorado psychiatric hospital and university hospital.

**Source: L. 91:** Entire part added, p. 577, § 2, effective June 1. **L. 94:** Entire section amended, p. 2739, § 371, effective July 1.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

**23-21-527. General assembly retains authority to enact laws governing university hospital.** The general assembly expressly reserves its plenary legislative authority relating to the university of Colorado university hospital, including but not limited to the authority to enact laws relating thereto. Nothing in this part 5 or part 6 of this article or in section 11 of article II of the state constitution or in section 10 of article I of the federal constitution, relating to impairment of the obligation of contract, shall be construed to limit said legislative authority. Any contract or other obligation of the authority is expressly subject to the provisions of this section, and the parties to such contract or obligation shall not assert such contract or obligation as a bar to the general assembly's exercise of legislative authority relating to the university of Colorado university hospital.



**Source: L. 91:** Entire part added, p. 578, § 2, effective June 1.

**23-21-528. Severability.** Any provision of this part 5 declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this part 5 or the provisions of part 6 of this article. Any provision of part 6 of this article declared to be unconstitutional or otherwise invalid shall not impair the provisions of this part 5 or the remaining provisions of said part 6.

**Source: L. 91:** Entire part added, p. 578, § 2, effective June 1.

## PART 6

### EMPLOYMENT STATUS AND PENSION STATUS OF EMPLOYEES OF REORGANIZED UNIVERSITY HOSPITAL

**23-21-601. Legislative declaration.** (1) The general assembly hereby finds and declares:

(a) That through the passage of House Bill No. 1143 at its first regular session in 1989, the general assembly intended to authorize the reorganization of the university of Colorado university hospital by its operation through a private nonprofit-nonstock corporation;

(b) That said hospital was reorganized and attempted to commence operations through a private nonprofit-nonstock corporation on October 1, 1989;

(c) That the Colorado supreme court subsequently found said House Bill No. 1143 unconstitutional;

(d) That employees of university hospital made decisions governing their state employment status and their membership in the public employees' retirement association in reliance on the provisions of said House Bill No. 1143;

(e) That this part 6 is enacted to address certain issues affecting employees of university hospital who changed their employment status or pension status, or both, in reliance on said House Bill No. 1143 or who were initially employed by the part 4 corporation, within the context of the creation of the university of Colorado hospital authority to operate university hospital pursuant to part 5 of this article.

**Source: L. 91:** Entire part added, p. 578, § 2, effective June 1.

**23-21-602. Personnel - election to return to state personnel system.** (1) (a) Any employee of university hospital who was a member of the state personnel system and was employed by university hospital on September 30, 1989, and who elected to become an employee of the part 4 corporation may become an employee of the authority on the authority's transfer date or may elect to return to classified employment in the state personnel system and may reserve the right to be employed by the authority.

(b) Any such employee of the part 4 corporation who elects to return to the state personnel system shall have restored all rights and privileges of membership in the state personnel system.

(2) (a) Any employee of university hospital who was a state employee but not a member of the state personnel system and was employed by university hospital on September 30, 1989, and who elected to become an employee of the part 4 corporation may become an employee of the authority on the authority's transfer date or may elect to return to state employment status and may reserve the right to be employed by the authority.

(b) Any such employee of the part 4 corporation who elects to become a state employee not a member of the state personnel system shall have restored all rights and privileges of a state employee not a member of the state personnel system.

(3) (a) Any employee initially employed by the part 4 corporation on and after October 1, 1989, and continuously employed thereafter, may become an employee of the authority on the authority's transfer date or may elect to be a state employee in the state personnel

system or a state employee not a member of the state personnel system, whichever is applicable to such employee's position.

(b) Any such employee of the part 4 corporation who elects to become a state employee in the state personnel system or a state employee not a member of the state personnel system shall have all rights and privileges of the state employment status which is applicable to such employee's position.

(4) Any election provided for in this section shall be made no later than one hundred twenty days after the authority's transfer date.

**Source: L. 91:** Entire part added, p. 579, § 2, effective June 1.

**23-21-603. Pension status of part 4 corporation employees.** (1) **Employees who elected to become employees of the part 4 corporation and rolled over PERA contributions to the part 4 corporation's qualified retirement plan - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who had all member contributions to PERA credited to the part 4 corporation's qualified retirement plan may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to become an employee of the part 4 corporation; except that said employee shall cooperate in obtaining the refund of any moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who elects to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(2) **Employees who elected to become employees of the part 4 corporation and received cash - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who received said employee's member contributions to PERA in cash may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to become an employee of the part 4 corporation; except that the authority shall have no such obligation unless the employee electing pursuant to this paragraph (b) purchases all of the employee's service credit in PERA for employment at university hospital prior to becoming a part 4 corporation employee by restoring to PERA the member contributions refunded plus interest accrued from the date of refund to completion of purchase. Said employee shall cooperate in obtaining the refund of any moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election pursuant to this paragraph (b).



(c) An employee electing to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

**(3) Employees who elected to become employees of the part 4 corporation and became vested inactive members of PERA - election to return to PERA.** (a) Any employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who became a vested inactive member of PERA may elect to return to the employee's prior state employment status and resume active membership in PERA.

(b) If an employee elects to resume active membership in PERA, the authority is obligated to contribute to PERA an amount necessary to restore said employee to the retirement status with PERA the employee would have attained if said employee had never elected to become an employee of the part 4 corporation; except that said employee shall cooperate in obtaining the refund of moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan. The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who elects to resume active membership in PERA may elect, no earlier than three years after the election to return to PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

**(4) Employees of the part 4 corporation not electing to return to prior state employment status become active members of the qualified retirement plan of the authority.** An employee of university hospital on September 30, 1989, who elected to become an employee of the part 4 corporation and who does not elect to return to such employee's prior state employment status and resume active membership in PERA shall become an employee of the authority on the authority's transfer date, shall commence active membership in the authority's qualified retirement plan, shall receive service credit in the authority's qualified retirement plan for the period of employment by the part 4 corporation, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority, and shall relinquish all rights in the part 4 plan.

**(5) Employees initially employed by the part 4 corporation on or after October 1, 1989 - election to become active members of PERA.** (a) Any employee of university hospital initially employed on or after October 1, 1989, may elect to become a state employee and an active member of PERA.

(b) If an employee elects to become an active member in PERA, the authority is obligated to contribute to PERA an amount necessary to establish the retirement status with PERA the employee would have attained if said employee had been a member of PERA from the date the employee was initially employed by the part 4 corporation; except that said employee shall cooperate in obtaining the refund of moneys contributed by the part 4 corporation and the employee under the "Federal Insurance Contributions Act", as amended, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority for transfer to PERA, and shall relinquish all rights in the part 4 plan and the authority's qualified retirement plan.

The authority's obligation under this paragraph (b) shall be discharged consistent with sound actuarial practices and PERA shall be obligated to act in accordance with this paragraph (b) in order to accomplish an employee election under this paragraph (b).

(c) An employee who becomes an active member in PERA may elect, no earlier than three years after the election to join PERA or upon acquiring twenty years of service credit in PERA, whichever occurs first, to become an employee of the authority and participate in the authority's qualified retirement plan in accordance with section 23-21-508; except that said employee shall not thereafter resume active membership in PERA while employed by the authority.

(6) **Employees initially employed by the part 4 corporation on or after October 1, 1989 - election to become active members of the authority's qualified retirement plan.** Any employee of university hospital initially employed on or after October 1, 1989, who does not elect to become a state employee and an active member in PERA shall become an employee of the authority on the authority's transfer date, shall commence active membership in the authority's qualified retirement plan, shall receive service credit in the authority's qualified retirement plan for the period of employment by the part 4 corporation, shall direct the trustee of the part 4 corporation's qualified retirement plan to distribute such employee's account balance in the plan to the authority, and shall relinquish all rights in the part 4 plan.

(7) **Election required - when.** Except as otherwise provided in subsections (1) (c), (2) (c), (3) (c), and (5) (c) of this section, any election provided for in this section shall be made no later than one hundred twenty days after the authority's transfer date.

**Source: L. 91:** Entire part added, p. 580, § 2, effective June 1.

**Cross references:** For the "Federal Insurance Contributions Act", see 26 U.S.C. 3101 et seq.

**23-21-604. Transfers necessary to accomplish the purposes of this part 6.** (1) The trustee of the part 4 corporation's qualified retirement plan shall transfer all reserves to the authority's qualified retirement plan as soon as practicable after the authority's transfer date and consistent with sound actuarial practices.

(2) (a) (I) The reserves held by PERA which are due and payable to the part 4 corporation shall remain with PERA to the extent and in the amount necessary to enable the authority to make the contributions to PERA provided for in section 23-21-603 (1) (b), (2) (b), (3) (b), or (5) (b).

(II) Any remaining reserves held by PERA which are due and payable to the part 4 corporation, including interest as determined by mutual agreement of the trustees of PERA and the board of directors of the authority, shall be transferred to the authority's qualified retirement plan as soon as practicable and consistent with sound actuarial practices.

(b) If the reserves held by PERA which are due and payable to the part 4 corporation are not sufficient to enable the authority to make the contributions to PERA provided for in section 23-21-603 (1) (b), (2) (b), (3) (b), or (5) (b), the authority shall transfer such additional amount to PERA plus interest as determined by mutual agreement of the trustees of PERA and the board of directors of the authority.

(3) Any employer and employee contributions under the "Federal Insurance Contributions Act", as amended, which are refunded pursuant to section 23-21-603 (1) (b), (2) (b), (3) (b), or (5) (b) shall be payable to the authority's qualified retirement plan.

(4) All expenses incurred for the preparation of actuarial reports pursuant to this section shall be paid by the authority. Any such actuarial reports shall be available to the authority upon request.

**Source: L. 91:** Entire part added, p. 584, § 2, effective June 1.

**Cross references:** For the "Federal Insurance Contributions Act", see 26 U.S.C. 3101 et seq.



## ARTICLE 22

## Psychiatric Hospital

23-22-101.	Psychopathic hospital and laboratory.	23-22-107.	Objects of hospital - eligible patients.
23-22-102.	Name of hospital changed.	23-22-108.	Voluntary private patients.
23-22-103.	Definitions.	23-22-109.	Control over voluntary patients.
23-22-104.	Control and management of hospital.	23-22-110.	Deposit of moneys collected.
23-22-105.	Control of hospital - director.	23-22-111.	Reorganization of university hospital - effect. (Repealed)
23-22-106.	Director and assistant.		

**23-22-101. Psychopathic hospital and laboratory.** There shall be established in this state a hospital under the name and title of the "psychopathic hospital and laboratory of the university of Colorado". This hospital shall be established at Denver.

**Source:** L. 19: p. 568, § 1. C.L. § 594. CSA: C. 105, § 59. CRS 53: § 124-3-1. C.R.S. 1963: § 124-3-1.

## ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-22-102. Name of hospital changed.** The institution within the university of Colorado, known and designated under the name and title of the "psychopathic hospital and laboratory of the university of Colorado" by section 23-22-101, after July 1, 1967, shall be designated under the name and title of the "university of Colorado psychiatric hospital". The legal effect of any statute prior to July 1, 1967, designating such hospital by any other name or property rights acquired and obligations incurred prior to said date under any other name shall not be impaired hereby.

**Source:** L. 67: p. 556, § 1. C.R.S. 1963: § 124-3-18.

**23-22-103. Definitions.** As used in this article, unless the context otherwise requires: (1) "Hospital" or "psychiatric hospital" means the university of Colorado psychiatric hospital.

**Source:** L. 23: p. 524, § 1. CSA: C. 105, § 67. CRS 53: § 124-3-2. C.R.S. 1963: § 124-3-2.

**23-22-104. Control and management of hospital.** Unless the assets of the university of Colorado psychiatric hospital are transferred, pursuant to section 23-21-506 (1) (a), to the university of Colorado hospital authority operating university hospital, the board of regents of the university of Colorado shall have full control and supervision of all the property and grounds and buildings of the hospital and shall have the entire government and management of the same. It shall prescribe and publish all rules, regulations, and bylaws for the management of the affairs of the hospital and of its patients and for the government of its officers and employees. The board shall make proper provisions for the reception, treatment, discharge, and transfer either from or to other institutions or from the hospital to family care and the return therefrom of all patients who may be committed to the hospital.

**Source:** L. 19: p. 569, § 4. C.L. § 597. CSA: C. 105, § 62. CRS 53: § 124-3-3. C.R.S. 1963: § 124-3-3. L. 89: Entire section amended, p. 1003, § 3, effective October 1. L. 91: Entire section amended, p. 586, § 5, effective October 1.

**Editor's note:** This section was amended in House Bill 89-1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of Colorado university hospital by a nonprofit-nonstock corporation. The Colorado Supreme Court subsequently declared House Bill 89-1143 unconstitutional in its entirety. See *Colorado Association of Public Employees v. Board of Regents*, 804 P.2d 138 (Colo. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of Colorado hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment to this section in Senate Bill 91-225. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of Colorado 1991.

### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-22-105. Control of hospital - director.** (1) The board of regents has full power to accept legacies, bequests, devises, and donations for the benefit of the psychiatric hospital and to apply the same to the furtherance of the purposes of said hospital, to the end that these benefits may accrue to the greatest possible extent to the afflicted citizens of this state.

(2) The director of said hospital shall serve as professor of psychiatry in the school of medicine of the university of Colorado.

**Source:** L. 23: p. 524, § 2. CSA: C. 105, § 68. CRS 53: § 124-3-4. C.R.S. 1963: § 124-3-4.

**23-22-106. Director and assistant.** The board of regents shall appoint a director who shall hold office during its pleasure and who is a physician and graduate of an incorporated medical college, who has had at least ten years' experience in the actual practice of his profession, and who has had at least five years' actual experience as a neuropathologist. The director shall reside at the hospital, and shall give his entire time and attention to the discharge of his official duties, and shall receive such compensation as shall be fixed by the board of regents. The board of regents may further provide for an assistant director who is a physician and graduate of an incorporated medical college and has had at least five years' experience in the actual practice of his profession and one year's specialization in nervous and mental diseases, and it shall provide for such other employees and medical assistants as may be necessary and shall prescribe their duties and fix their respective compensations. All such assistants and employees shall be selected and appointed by the director, subject to the approval of the board of regents, and they shall hold their positions subject to such rules and regulations as the board of regents may prescribe.

**Source:** L. 19: p. 570, § 6. C.L. § 599. CSA: C. 105, § 64. CRS 53: § 124-3-5. C.R.S. 1963: § 124-3-5.

**Cross references:** For rule-making procedures, see article 4 of title 24.

### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-22-107. Objects of hospital - eligible patients.** (1) The hospital shall be primarily and principally conducted, not for chronic illness, but for the care and treatment of legal residents of Colorado who are afflicted with a mental disease or disorder or abnormal



mental condition which can probably be remedied by observation, treatment, and hospital care. Said hospital shall also be utilized for such instruction and for such scientific research as, in the opinion of the board of regents, will promote the welfare of the patients committed to its care and assist in the application of science to the prevention and cure of mental diseases.

(2) Persons eligible to admission to said hospital as patients shall belong to one of the following classes: First, voluntary public patients; second, committed public patients; third, voluntary private patients; fourth, committed private patients; fifth, part pay patients, either voluntary or committed.

(3) A voluntary public patient is one who is admitted to the hospital at his own request or at the request of the person who has lawful custody or control over him. A committed patient is one who is ordered by the court to submit to observation, care, and treatment at the hospital. A private patient is one whose entire expenses at the hospital are paid by himself, out of his estate, by those responsible for his support, or by some person who voluntarily assumes the expense. A public patient is one whose entire expense at the hospital is paid out of the psychiatric hospital fund. A part pay patient is one whose expense is paid in part out of the psychiatric hospital fund, and the remainder is paid by himself, out of his estate, by those legally responsible for his support, or by someone who voluntarily assumes the expense.

**Source:** L. 23: p. 525, § 3. CSA: C. 105, § 69. CRS 53: § 124-3-6. C.R.S. 1963: § 124-3-6.

#### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-22-108. Voluntary private patients.** Voluntary private patients may be admitted in accordance with regulations to be established by the board of regents of the university of Colorado, and their care, nursing, observation, treatment, medicine, maintenance, and other expenses shall be without expense to the state. However, the charge for such care, nursing, observation, treatment, medicine, maintenance, and other expenses shall not exceed the actual per diem cost of the same as determined by the board of regents. An advance deposit for the expenses of voluntary private patients shall be required at all times.

**Source:** L. 23: p. 532, § 7. CSA: C. 105, § 73. CRS 53: § 124-3-13. C.R.S. 1963: § 124-3-7.

**23-22-109. Control over voluntary patients.** If any person has been admitted to the hospital as a voluntary patient, the director of the hospital has the same authority and control over him as if such patient had been admitted by order of court; except that a voluntary patient shall not be detained against his will or that of the person having legal custody or control over him for a period of more than ten days unless said director has within such interval obtained an order of commitment.

**Source:** L. 23: p. 532, § 8. CSA: C. 105, § 74. CRS 53: § 124-3-14. C.R.S. 1963: § 124-3-8.

#### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-22-110. Deposit of moneys collected.** (1) All sums collected from patients in said hospital shall be deposited in the psychiatric hospital fund.

(2) Every person received as a patient at the psychiatric hospital, whether committed or otherwise, and the estate of such person and of all persons responsible for his support are liable for the cost of the inquisition, commitment, transportation, and hospital expenses.

(3) The expenses of the proceedings, commitment, and transportation to the hospital may be recovered by the county bearing such expenses, and the expenses of observation, treatment, and hospital care and of transportation and attendance of any discharged patient from said hospital to any point within the state to which he may be discharged, insofar as they remain unpaid, may be collected by the attorney general for the board of regents. The statutes of limitations shall not run against the obligations for these items. All moneys so collected by the attorney general shall be placed in the psychiatric hospital fund.

**Source:** L. 23: p. 538, § 16. CSA: C. 105, § 82. CRS 53: § 124-3-20. C.R.S. 1963: § 124-3-9.

### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

### 23-22-111. Reorganization of university hospital - effect. (Repealed)

**Source:** L. 89: Entire section added, p. 1005, § 10, effective October 1. L. 91: (2) added by revision, p. 589, §§ 14, 15.

**Editor's note:** Subsection (2) provided for the repeal of this section upon the repeal of part 1 of article 21 of this title. Said part 1 was repealed, effective October 1, 1991. (See L. 91, p. 589.)

## ARTICLE 23

### Children's Diagnostic Center

23-23-101.	Children's diagnostic center established.	23-23-106.	costs. Hearings held in Denver juvenile court - when.
23-23-102.	Supervision - interdepartmental cooperation.	23-23-107.	Case histories - preparation and use.
23-23-103.	Evaluations made - when.	23-23-108.	Limitation on admissions - report - disposition of children.
23-23-104.	Custody of children - housing.		
23-23-105.	Guardians - transportation -		

**23-23-101. Children's diagnostic center established.** In order to provide for the commitment or sentencing of children to the various institutions of the state of Colorado most suited to their care, rehabilitation, and treatment, to provide the administrative authorities of such institutions with social and medical case histories of children committed or sentenced to such institutions, and to provide the courts with such information as may be needed before children are sentenced or committed to such institutions, there is hereby established a Colorado children's diagnostic center, to be located at the Colorado psychiatric hospital.

**Source:** L. 55: p. 807, § 1. CRS 53: § 124-3-26. C.R.S. 1963: § 124-3-10.



## ANNOTATION

**Law reviews.** For article, "Highlights of the 1955 Colorado Legislative Session — Domestic Relations", see 28 Rocky Mt. L. Rev. 66 (1955).

For note, "Juvenile Delinquency — Colorado's Unassumed Burden", see 36 U. Colo. L. Rev. 519 (1964).

**23-23-102. Supervision - interdepartmental cooperation.** The center shall be under the general supervision and control of the regents of the university of Colorado. The governor shall instruct the executive director of the department of human services to cooperate with the regents to provide the diagnostic services provided for by this article.

**Source:** L. 55: p. 807, § 2. CRS 53: § 124-3-27. C.R.S. 1963: § 124-3-11. L. 94: Entire section amended, p. 2691, § 223, effective July 1.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

**23-23-103. Evaluations made - when.** (1) A child may be referred to the medical center for diagnostic evaluation and study under the following conditions:

(a) A judge who has before him the matter of possible commitment or sentencing of a child to one of the institutions of the state may have an evaluation of such child made at the diagnostic center; or any such judge may send a child to the center for an evaluation of his mental and physical capacity if such judge believes such diagnosis will aid him in his determination of the matter concerning such child before him, regardless of the fact that, because of lack of space, none of the regional centers is able to accept such child.

(b) Any such judge, for the purpose of determining whether or not a child under sixteen years of age has a mental illness or developmental disability, may cause any such child to be sent to the center for diagnostic evaluation.

(c) The superintendent of any institution in Colorado to which children have been committed or sentenced may request the executive director of the department of human services to have an evaluation of any child in his institution made at the center.

(d) The director of a county department of social services may request an evaluation at the Colorado children's diagnostic center of a child in the care, custody, or supervision of such county department when such evaluation will aid it in its determination of the disposition, placement, or planning for such child; but no such evaluation shall be requested until such parental consent as is necessary has been obtained. If such an evaluation is made, the costs thereof shall be paid by the said county department of social services.

**Source:** L. 55: p. 808, § 3. CRS 53: § 124-3-28. L. 61: p. 712, § 1. C.R.S. 1963: § 124-3-12. L. 65: p. 1034, § 1. L. 75: (1)(b) amended, p. 929, § 37, effective July 14. L. 83: (1)(a) amended, p. 1160, § 16, effective April 26. L. 94: (1)(c) amended, p. 2692, § 224, effective July 1. L. 2006: (1)(b) amended, p. 1404, § 62, effective August 7.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(c), see section 1 of chapter 345, Session Laws of Colorado 1994.

**23-23-104. Custody of children - housing.** For the making of any such diagnostic evaluation before commitment, the district judge or juvenile judge shall give the temporary custody of the child to the executive director of the department of human services for temporary placement at any state institution deemed most suitable by the executive director during the period of evaluation. Subject to the provisions of section 23-23-108, the executive director of the department of human services shall accept all such children assigned to him within the limits of available facilities. Nothing in this section shall be construed to permit the designation of the university of Colorado psychiatric hospital as a housing facility for such children.

**Source:** **L. 55:** p. 808, § 4. **CRS 53:** § 124-3-29. **L. 61:** p. 712, § 2. **C.R.S. 1963:** § 124-3-13. **L. 64:** p. 312, § 285. **L. 74:** Entire section amended, p. 420, § 69, effective April 11. **L. 94:** Entire section amended, p. 2692, § 225, effective July 1.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

**23-23-105. Guardians - transportation - costs.** The district or juvenile judge requesting a diagnostic evaluation of any child in his county to be made at the center shall appoint a guardian to accompany such child to the center. The full costs of the transportation and subsistence of such child and guardian to and from the center and during the period of examination shall be paid by the parents of such child, and, if the parents are unable to pay such costs, they shall be paid by the county.

**Source:** **L. 55:** p. 808, § 5. **CRS 53:** § 124-3-30. **C.R.S. 1963:** § 124-3-14. **L. 64:** p. 313, § 286.

#### ANNOTATION

**Law reviews.** For article, "Liability of Counties for Support of Inmates in State Institutions", see 29 Dicta 27 (1952).

**23-23-106. Hearings held in Denver juvenile court - when.** Any district judge may, in order to eliminate the cost of returning any child back to his county of residence after such diagnosis is completed, designate the juvenile court of the city and county of Denver as master or magistrate to hear any additional evidence that may be necessary in the case. He may then, on the basis of the report from such master or magistrate and the information in the diagnostic report and such other evidence as the court may require, commit such child to the appropriate institution and direct that such child be transported from the center to such institution.

**Source:** **L. 55:** p. 809, § 6. **CRS 53:** § 124-3-31. **C.R.S. 1963:** § 124-3-15. **L. 64:** p. 313, § 287. **L. 91:** Entire section amended, p. 364, § 37, effective April 9.

**23-23-107. Case histories - preparation and use.** (1) In order to facilitate the work of the center in making a diagnostic evaluation of a child as provided in this article, the county department of social services of the county of the child's residence or any licensed children's agency in such county shall prepare and forward to the center a social and medical case history of such child to assist the center in making such diagnosis. Such history shall accompany or precede the child's assignment to the center.

(2) In order to assist the administrative authorities of any institution to which a child is finally committed or sentenced, such case history prepared as provided in subsection (1) of this section, together with a copy of the diagnostic report made by the center upon the completion of an evaluation of any such child, shall be transmitted to the authorities of such institution.

**Source:** **L. 55:** p. 809, § 7. **CRS 53:** § 124-3-32. **C.R.S. 1963:** § 124-3-16.

**23-23-108. Limitation on admissions - report - disposition of children.** The director of the Colorado children's diagnostic center shall determine whether a child referred by an institution or by a district or juvenile court shall be accepted for study and evaluation at the diagnostic center. Such determination shall be based on the adequacy and availability of local facilities, including local community mental health clinics, for such study and evaluation, the emergency nature of the referral, and the number of children currently being studied and evaluated and waiting to be studied and evaluated at the diagnostic center. Said



diagnostic center upon completion of its study and evaluation in each case shall make its report in writing to said director; whereupon, the child shall forthwith be returned to the institution from which he came or committed or sentenced to the appropriate institution and removed thereto without delay.

**Source:** L. 55: p. 809, § 8. CRS 53: § 124-3-33. L. 61: p. 713, § 3. C.R.S. 1963: § 124-3-17. L. 64: p. 313, § 288.

ARTICLE 30

Board of Governors of the  
Colorado State University System

**Editor's note:** This article was numbered as article 11 of chapter 124, C.R.S. 1963. The provisions of this article were amended with relocations in 2007, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

23-30-101.	Board of governors of the Colorado state university system.	23-30-112.	Tuition - repeal.
		23-30-113.	Board's personnel powers.
23-30-102.	Board body corporate - powers relating to real and personal property.	23-30-114.	Board to choose chancellor and certain staff.
		23-30-115.	Chancellor to choose certain staff.
23-30-103.	Vacancies - compensation.	23-30-116.	Board to choose presidents.
23-30-104.	Meetings of board.	23-30-117.	Presidents to choose faculty and staff.
23-30-105.	Election of officers - terms.		
23-30-106.	Board of governors of the Colorado state university system fund - creation - control - use.	23-30-118.	Board to fix salaries.
		23-30-119.	Board to confer degrees.
		23-30-120.	Payment of expenses.
23-30-107.	Duties of secretary.	23-30-121.	Investments in consolidated funds.
23-30-108.	Duties of treasurer - financial instruments signed by whom - accounts.	23-30-122.	Corporate stock in nominee authorized.
23-30-109.	Program to be made.	23-30-123.	Investment policy - fiduciary responsibility.
23-30-110.	Duration of course.	23-30-124.	Online university established
23-30-111.	Academic year - term - suspension.		- role and mission. (Repealed)

**23-30-101. Board of governors of the Colorado state university system.** (1) (a) A board is hereby established that shall be known by the name and title of the board of governors of the Colorado state university system, referred to in this section as the "board". It shall consist of a total of fifteen members as provided in paragraphs (b) and (c) of this subsection (1).

(b) Six of the members shall be advisory, without the right to vote. The six advisory members shall be elected or appointed by their respective governing bodies from their membership. The advisory officers shall serve terms of one academic year. The advisory members shall consist of:

(I) One elected officer of the student body who is a full-time junior or senior student at Colorado state university;

(II) One elected officer of the faculty council of Colorado state university having the rank of associate professor or higher;

(III) One elected officer of the student body who is a full-time junior or senior student at the Colorado state university - Pueblo;

(IV) One elected officer of the faculty council of the Colorado state university - Pueblo having the rank of associate professor or higher;

(V) One student in good standing from the CSU global campus student body, to be recommended by the student affairs committee and approved by the governing council at CSU global campus; and

(VI) One CSU global campus faculty member with a minimum of three years of service on the CSU global campus faculty, to be recommended by the faculty affairs committee and approved by the governing council at CSU global campus.

(c) Commencing with appointments made in 1974 and continuing through appointments made in 2006, the remaining nine members of the board, at least one of whom shall be a graduate of the Colorado state university or Colorado state university - Pueblo and at least two of whom shall have some connection with agriculture, shall be appointed by the governor, with the consent of the senate, for basic terms of four years, although interim appointments may be made for lesser periods so that at least two of the nine terms will expire in each calendar year.

(d) Commencing with appointments made in 2007 and subsequent years, the remaining nine members of the board shall be appointed by the governor with the consent of the senate, for terms of four years, in the following manner:

(I) One of the nine voting members shall either reside in Larimer county or be a graduate of Colorado state university.

(II) One of the nine voting members shall either reside in southern Colorado or be a graduate of Colorado state university - Pueblo.

(III) At least two of the nine voting members shall have substantial experience in the production of agriculture.

(IV) The appointment of the voting members not appointed under subparagraphs (I) and (II) of this paragraph (d) shall be made with consideration given to broad geographical representation whenever possible.

(e) (Deleted by amendment, L. 2008, p. 1999, § 1, effective August 5, 2008.)

(f) For purposes of paragraph (d) of this subsection (1), "southern Colorado" means Alamosa, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache counties.

(g) Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed.

(h) A person, elected or appointed under this section, shall not serve on the board for more than two terms; except that a member of the board, whether elected or appointed, shall continue to serve until a successor is elected or appointed and confirmed by the senate.

(i) Of the nine members appointed by the governor, no more than five members shall be from the same political party.

(j) For the purposes of this section, "full-time student" means the same as it does in the respective institutions.

(2) (a) Whenever any law of this state refers to the state board of agriculture, it shall be taken to refer to the board of governors of the Colorado state university system. The legal effect of any statute heretofore designating the board of governors of the Colorado state university system by any other name, or property rights heretofore acquired and obligations heretofore incurred under any other name, shall not be impaired.

(b) The revisor of statutes is authorized to make such changes in other provisions of the statutes as may be necessary to conform such provisions to the change of name of the board specified in subsection (1) of this section.

**Source:** L. 2007: Entire article amended with relocations, p. 517, § 1, effective August 3; (1) amended, p. 462, § 1, effective August 3. L. 2008: (1)(d), (1)(e), (1)(f), and (1)(h) amended, p. 1999, § 1, effective August 5. L. 2012: (1)(a), (1)(b), (1)(g), and (1)(h) amended, (HB 12-1220), ch. 100, p. 333, § 2, effective August 8.

**Editor's note:** (1) This section is similar to former § 23-30-101 as it existed prior to 2007.



(2) Amendments to subsection (1) by Senate Bill 07-052 and House Bill 07-1254 were harmonized.

### ANNOTATION

**Annotator's note.** Since § 23-30-101 is similar to § 23-30-101 as it existed prior to the 2007 amendment to articles 30, 31, 32, 33, 34, 35, and 55 of title 23, which resulted in the relocation of provisions, a relevant case construing that provision has been included in the annotations to this section.

**Removal of members not provided for.** The statute contains no provision for the removal in

any manner, or by any authority, of any member of the board. *Benson v. People ex rel. McClelland*, 10 Colo. App. 175, 50 P. 212 (1897).

**The action of removing a member of the state board of agriculture finds no support in the constitution.** *Benson v. People ex rel. McClelland*, 10 Colo. App. 175, 50 P. 212 (1897).

### **23-30-102. Board body corporate - powers relating to real and personal property.**

(1) The board of governors of the Colorado state university system is a body corporate, capable in law of suing and being sued; of taking, holding, acquiring, exchanging, selling, and determining the uses of personal property and real estate, or any interest therein, the ownership of which is vested in the board of governors of the Colorado state university system or the entities governed by it; of contracting and being contracted with; of having and using a corporate seal; having duties and powers to control, manage, and direct the fiscal and all other affairs of the Colorado state university system and the entities it governs; and of causing to be done all things necessary to carry out the provisions of this article.

(1.5) The board of governors of the Colorado state university system shall report all sales, leases, or exchanges of real property to the Colorado commission on higher education.

(2) The board of governors of the Colorado state university system has the power to lease personal property, the ownership of which is vested in the Colorado state university system, or on behalf of any entity governed by it, for a term not to exceed eighty years to state or federal governmental agencies and to persons or corporations, public or private.

(2.5) Subject to such reviews and approvals of state agencies as are required by law, the board of governors of the Colorado state university system has the power to sell, lease, or exchange real property, or any interest therein, including any mineral rights, the ownership of which is vested in the board of governors of the Colorado state university system or on behalf of any entity governed by it. All moneys which arise from the sale, lease, or exchange of said real property, or any interest therein, and all funds transferred pursuant to this subsection (2.5), together with any interest arising from the investment of said moneys and funds, shall be under the exclusive control of the board of governors of the Colorado state university system. The state treasurer is instructed to turn over to the board of governors of the Colorado state university system all the moneys, warrants, bonds, and other securities of any nature, and any interest earned thereon, that have come from the sale, lease, or exchange of said real property, or any interest therein, including any mineral rights.

(3) The board of governors of the Colorado state university system has the power to lease any real property or any interest therein owned by it on behalf of any entity governed by it for mineral exploration, development, and production purposes, upon such terms and conditions as may be prescribed and contracted by the board in the exercise of its best judgment as being in the best interests of said entity. Any lease of mineral rights shall be for a term not to exceed ten years and so long thereafter as minerals are produced and shall provide for a royalty of not less than the royalty for current commercial agreements which are generally accepted as fair royalty returns, which royalty may be reduced proportionately under an appropriate provision in the lease if the interest in said board is less than a full interest in the land or mineral rights in the land described in the lease. All royalties received under lease agreements made pursuant to the authority of this section shall be remitted by the board of governors of the Colorado state university system to the state treasurer for deposit in the general fund. Whenever, in the opinion of the board and because of the size, shape, or current use of any tract of land owned by said board on behalf of any entity governed by it, any lease of such tract provides that no mineral development or production

be conducted on the land covered thereby, such lease shall be for a term not to exceed ten years and so long thereafter as the board may share in royalties payable on account of the production of minerals from lands adjacent to such tract so leased.

(4) Whenever deemed by the board of governors of the Colorado state university system to be in the best interests of any entity governed by it, the board may enter into a unit agreement on behalf of the entity, which unit agreement may provide for the pooling, unitization, or consolidation of acreage covered by any oil and gas lease executed by the board with other acreage for oil and gas exploration, development, and production purposes and also provide for the apportionment or allocation of royalties among the separate tracts of land included in the unit or pooling agreement on an acreage or other equitable basis, and the board may change, by such agreement and with the consent of the lessee under the lease, any or all of the provisions of any lease issued by it, including the term of years for which the lease was originally granted, in order to conform the lease to the terms and provisions of the unit or pooling agreement and to facilitate the efficient and economic production of oil and gas from the lands subject to such agreement.

(5) The leasing of real property or any interest therein held by the board of governors of the Colorado state university system under the provisions of this section shall not be deemed to be a sale of such property.

(6) The board of governors of the Colorado state university system has the power to exchange real property or any interest therein owned by the board on behalf of any entity governed by it for lands or interests in lands which the board, in the exercise of its best judgment, believes to be in the best interests of said entity in the furtherance of its programs.

(7) The authority of the board of governors of the Colorado state university system to execute oil and gas or other mineral leases of lands owned by the board prior to June 3, 1977, is hereby confirmed and acknowledged, and no such lease heretofore executed by the board shall be invalid for want of such authority.

**Source: L. 2007:** Entire article amended with relocations, p. 518, § 1, effective August 3. **L. 2012:** (1) amended, (HB 12-1220), ch. 100, p. 334, § 3, effective August 8.

**Editor's note:** This section is similar to former § 23-30-102 as it existed prior to 2007.

#### ANNOTATION

**Annotator's note.** Since § 23-30-102 is similar to § 23-30-102 as it existed prior to the 2007 amendment to articles 30, 31, 32, 33, 34, 35, and 55 of title 23, which resulted in the relocation of provisions, relevant cases construing that provision have been included in the annotations to this section.

**The board is a corporation created by statute,** and its powers are thereby defined. *State Bd. of Agric. v. Meyers*, 20 Colo. App. 139, 77 P. 372 (1904).

**State board of agriculture (SBA) was proper party appellant to challenge order requiring Colorado state university (CSU) to reinstate women's fast pitch softball team.** Though CSU maintains control over certain internal policies, SBA has general control and supervisory power over CSU including complete financial control. *Roberts v. Colo. State Bd. of Agric.*, 998 F.2d 824 (10th Cir. 1993).

**23-30-103. Vacancies - compensation.** Any vacancy in the office of any member of the board of governors of the Colorado state university system appointed by the governor caused by death, resignation, or removal from the state may be filled by a majority of the voting members. Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term. The members of the board shall receive no compensation for their services but may be allowed reimbursement for expenses incurred that are reasonable, necessary, and directly related to an individual's duties as a board member upon presenting an itemized bill for the same.

**Source: L. 2007:** Entire article amended with relocations, p. 520, § 1, effective August 3.



**Editor's note:** This section is similar to former § 23-30-103 as it existed prior to 2007.

### ANNOTATION

**Annotator's note.** Since § 23-30-103 is similar to § 23-30-103 as it existed prior to the 2007 amendment to articles 30, 31, 32, 33, 34, 35, and 55 of title 23, which resulted in the relocation of provisions, a relevant case construing that provision has been included in the annotations to this section.

**Vacancies may only be filled where a majority of board members are present.** An elec-

tion to fill the vacancy caused by the death of a member of the board is void where, at the meeting which assumes to elect the replacement, there is not a majority of the members present at the meeting as required by this section. There was therefore, no valid election. *Benson v. People ex rel. McClelland*, 10 Colo. App. 175, 50 P. 212 (1897).

**23-30-104. Meetings of board.** The board shall meet at the Colorado state university twice annually and may meet at other times and places at the call of the chair who has the power in case of emergency to call special meetings of the board. The chair, with the consent of the board, shall annually set the schedule for regular board meetings. Upon the written request of any three members of the board, it is the duty of the chair of the board to call a special meeting thereof at such time and place as shall be designated in the written request therefor. A quorum of the board is a majority of voting members of the board.

**Source: L. 2007:** Entire article amended with relocations, p. 520, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 334, § 4, effective August 8.

**Editor's note:** This section is similar to former § 23-30-104 as it existed prior to 2007.

**23-30-105. Election of officers - terms.** (1) The board of governors of the Colorado state university system shall elect from its membership a chair and a vice-chair and also from its membership or from outside its membership a secretary and a treasurer, all of which said officers shall hold the office to which they are chosen for a period of two years from the date of election and until their successors are duly elected and qualified. The secretary shall give bond in an amount deemed sufficient by the board and discharge all the duties of said office in accordance with section 23-30-107. The treasurer shall give bond in an amount deemed sufficient by the board and safely keep and account for all moneys received by the treasurer and pay the same out only on warrants of the board of governors of the Colorado state university system, signed by its chair and countersigned by its chief financial officer in accordance with section 23-30-108. The board of governors may waive the bond requirements set forth in this subsection (1) and in lieu thereof utilize all applicable governmental insurance coverage.

(2) Repealed.

**Source: L. 2007:** Entire article amended with relocations, p. 520, § 1, effective August 3. **L. 2008:** (2) repealed, p. 342, § 4, effective April 10. **L. 2012:** (1) amended, (HB 12-1220), ch. 100, p. 335, § 5, effective August 8.

**Editor's note:** This section is similar to former § 23-30-105 as it existed prior to 2007.

**23-30-106. Board of governors of the Colorado state university system fund - creation - control - use.** (1) There is hereby created in the state treasury the board of governors of the Colorado state university system fund which is under the control of and administered by the board of governors of the Colorado state university system in accordance with the provisions of this article. The board of governors has authority and responsibility for all moneys of the board of governors and any entity governed by it. The board of governors shall designate, pursuant to its constitutional and statutory authority, those moneys received or acquired by the board of governors of the Colorado state

university system or any of the entities it governs, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, that shall be credited to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of governors of the Colorado state university system and shall remain in the fund under the control of the board of governors and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the board of governors of the Colorado state university system fund shall be used by the board of governors of the Colorado state university system for the payment of salaries and operating expenses of the board and the entities it governs and for the payment of any other expenses incurred by the board and the entities it governs in carrying out its statutory powers and duties.

(3) Moneys in the board of governors of the Colorado state university system fund which are not needed for immediate use by the board of governors of the Colorado state university system may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.

(4) If the board of governors votes to invest moneys pursuant to sections 23-30-121 and 23-30-122, the board of governors shall establish an investment advisory committee consisting of at least five members to make recommendations to the board of governors regarding investments. The investment advisory committee shall include, at a minimum, the treasurer of the Colorado state university system, a member of the board of governors, and three representatives of the financial community.

**Source: L. 2007:** Entire article amended with relocations, p. 521, § 1, effective August 3. **L. 2008:** (1) amended and (4) added, p. 342, § 5, effective April 10. **L. 2012:** (1) and (2) amended, (HB 12-1220), ch. 100, p. 335, § 6, effective August 8.

**Editor's note:** This section is similar to former § 23-30-106 as it existed prior to 2007.

**23-30-107. Duties of secretary.** It is the duty of the secretary to keep a record of the transactions of the board of governors of the Colorado state university system and keep and file all reports that may be required at any time, which shall be open at all times to the inspection of any citizen of the state. The secretary shall also have the custody of all books, papers, documents, and other property which may be deposited in the secretary's office.

**Source: L. 2007:** Entire article amended with relocations, p. 521, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 7, effective August 8.

**Editor's note:** This section is similar to former § 23-30-107 as it existed prior to 2007.

**23-30-108. Duties of treasurer - financial instruments signed by whom - accounts.** (1) The treasurer of the board shall keep a true and faithful account of all funds so received in separate accounts according to the source of the funds. The treasurer shall report on the funds to the board of governors of the Colorado state university system, including an annual report at the close of the fiscal year and other reports as the board may require. The duties of the treasurer may, upon approval by the board, be delegated to the chief financial officer of the Colorado state university system.

(2) Warrants, checks, or other financial instruments shall be used to pay the expenses of the board of governors of the Colorado state university system and the entities it governs and shall be duly signed by the chair and countersigned by the treasurer or the chief financial officer appointed by the board for the Colorado state university system, or the presidents or their delegates.



**Source: L. 2007:** Entire article amended with relocations, p. 522, § 1, effective August 3.  
**L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 8, effective August 8.

**Editor's note:** This section is similar to former § 23-30-108 as it existed prior to 2007.

**23-30-109. Program to be made.** The board of governors of the Colorado state university system and faculty shall, when deemed appropriate by the board, make programs of theoretical and practical instruction.

**Source: L. 2007:** Entire article amended with relocations, p. 522, § 1, effective August 3.  
**L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 9, effective August 8.

**Editor's note:** This section is similar to former § 23-31-104 as it existed prior to 2007.

#### ANNOTATION

**Law reviews.** For note, "The Problem of the Local Improvement District in Colorado", see 12 Rocky Mt. L. Rev. 45 (1939).

**23-30-110. Duration of course.** The board of governors of the Colorado state university system may institute courses of lectures for persons other than students of the institutions governed by the board under necessary rules and regulations.

**Source: L. 2007:** Entire article amended with relocations, p. 522, § 1, effective August 3.

**Editor's note:** This section is similar to former § 23-31-105 as it existed prior to 2007, and the former § 23-30-110 was relocated to § 23-31-119.

**23-30-111. Academic year - term - suspension.** The academic year may be divided into such terms by the board of governors of the Colorado state university system as in their judgment will best secure the objects for which the universities governed by the board were founded. The board at any time may temporarily suspend a university in case of fire, the prevalence of fatal diseases, or other unforeseen calamity.

**Source: L. 2007:** Entire article amended with relocations, p. 522, § 1, effective August 3.

**Editor's note:** This section is similar to former § 23-31-106 as it existed prior to 2007, and the former § 23-30-111 was relocated to § 23-31-120.

**23-30-112. Tuition - repeal.** (1) The board of governors of the Colorado state university system shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for the entities it governs pursuant to section 23-1-104 (1) (b) (I). The board may discriminate in regard to tuition between students from this state and students from other states.

(2) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, for fiscal years 2011-12 through 2015-16, the board of governors of the Colorado state university system, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend the institutions it governs.

(b) This subsection (2) is repealed, effective July 1, 2016.

**Source: L. 2007:** Entire article amended with relocations, p. 522, § 1, effective August 3. **L. 2008:** Entire section amended, p. 119, § 4, effective March 19. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1842, § 9, effective June 9.

**Editor's note:** This section is similar to former § 23-31-107 as it existed prior to 2007, and the former § 23-30-112 was relocated to § 23-31-121.

**Cross references:** For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-30-113. Board's personnel powers.** The board of governors of the Colorado state university system has authority over all personnel matters relating to the system and the institutions and entities it governs. The board may delegate all or part of its powers over personnel matters in accordance with section 23-5-117.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3.

**23-30-114. Board to choose chancellor and certain staff.** (1) It is the duty of the board of governors of the Colorado state university system to choose:

- (a) A chancellor of the Colorado state university system, who shall serve as the chief executive officer of the system; and
- (b) Other system staff that report directly to the board.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3.

**23-30-115. Chancellor to choose certain staff.** Pursuant to section 23-30-113, the board of governors of the Colorado state university system may delegate to the chancellor of the Colorado state university system the power to choose such personnel as may be needed as system staff, which personnel shall report directly to the chancellor.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3.

**23-30-116. Board to choose presidents.** It is the duty of the board of governors of the Colorado state university system to choose the presidents of the institutions it governs. In case of a vacancy in an office of president, the board shall appoint an interim president who shall perform the duties of the office until the board selects a president.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3.

**Editor's note:** This section is similar to former § 23-31-109 as it existed prior to 2007.

#### ANNOTATION

**Applied** in *Van Pelt v. State Bd. for Cmty. Colls. & Occupational Educ.*, 195 Colo. 316, 577 P.2d 765 (1978) (decided prior to 2007 amendment).

**23-30-117. Presidents to choose faculty and staff.** Pursuant to section 23-30-113, the board of governors of the Colorado state university system may delegate to the presidents of the institutions it governs the power to choose such professors and staff as the necessities of their institutions require.



**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3.

**23-30-118. Board to fix salaries.** The board shall fix the salaries of the chancellor, presidents, and other system staff that report directly to the board and shall prescribe their respective duties. The board may delegate the authority to set salaries for professors and other employees of the system to the chancellor and presidents. The board may remove the chancellor, presidents, or subordinate officers and fill all vacancies.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 336, § 10, effective August 8.

**Editor's note:** This section is similar to former § 23-31-111 as it existed prior to 2007.

### ANNOTATION

**Annotator's note.** Since § 23-30-118 is similar to § 23-31-111 as it existed prior to the 2007 amendment to articles 30, 31, 32, 33, 34, 35, and 55 of title 23, which resulted in the relocation of provisions, a relevant case construing that provision has been included in the annotations to this section.

**Professors in the various departments of the college are mere employees.** State Bd. of Agric. v. Meyers, 20 Colo. App. 139, 77 P. 372 (1904).

**Board has power to employ them for definite time.** The state board of agriculture has the power to employ professors for a definite time, not unreasonably long. The section has left the determination of the length of time for which the employment of professors should be made largely to the judgment of the state board of agriculture. State Bd. of Agric. v. Meyers, 20 Colo. App. 139, 77 P. 372 (1904).

**Effect of continuing over without objection after expiration of express contract.** Where a professor was employed by an express contract

to teach in the Colorado agricultural college for the term of one year, and continued in the same service, without objection, after the expiration of the term, there was an implied contract of employment for the term of one year at the same salary for each year that he so continued. State Bd. of Agric. v. Meyers, 20 Colo. App. 139, 77 P. 372 (1904).

**Board must respond in damages for wrongful discharge.** While this section gives the state board of agriculture the power to remove a professor it does not absolve it from responsibility in damages if the discharge is wrongful. State Bd. of Agric. v. Meyers, 20 Colo. App. 139, 77 P. 372 (1904).

**Where the state board of agriculture employed a professor to teach in the state agricultural college for the term of one year, and discharged him before the end of the term, without good cause, the professor was entitled to recover his salary for the balance of the term, as damages for violation of the contract.** State Bd. of Agric. v. Meyers, 20 Colo. App. 139, 77 P. 372 (1904).

**23-30-119. Board to confer degrees.** The board, with the advice of the institutions it governs, shall confer such degrees or testimonials as are conferred by similar institutions.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 337, § 11, effective August 8.

**Editor's note:** This section is similar to former § 23-31-112 as it existed prior to 2007.

**23-30-120. Payment of expenses.** The board of governors shall have general supervision, control, and direction of the funds and appropriations made thereto. All expenses of the board of governors of the Colorado state university system and the entities it governs shall be paid from funds received or maintained by the board or the entities it governs in accordance with the procedures listed in section 23-30-108.

**Source: L. 2007:** Entire article amended with relocations, p. 523, § 1, effective August 3. **L. 2012:** Entire section amended, (HB 12-1220), ch. 100, p. 337, § 12, effective August 8.

**Editor's note:** This section is similar to former § 23-31-120 as it existed prior to 2007.

**23-30-121. Investments in consolidated funds.** Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of governors of the Colorado state university system may hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

**Source: L. 2008:** Entire section added, p. 343, § 6, effective April 10.

**23-30-122. Corporate stock in nominee authorized.** (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of governors of the Colorado state university system, referred to in this section as the "board", is authorized to hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board or are held in a fiduciary capacity if:

(a) The records of the board and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holdings; and

(b) The nominee deposits with the board a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock certificate except under the immediate supervision of the treasurer of the Colorado state university system or another person that the board has designated.

(2) The board shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) The board shall report to the joint budget committee of the general assembly at each regular session regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and section 23-30-121. The report shall include information indicating the extent to which the investment managers hired by the board have achieved or failed to achieve the performance benchmarks established pursuant to section 23-30-123 (1) (b).

**Source: L. 2008:** Entire section added, p. 343, § 6, effective April 10.

**23-30-123. Investment policy - fiduciary responsibility.** (1) If the board of governors votes to invest assets of the Colorado state university system pursuant to sections 23-30-121 and 23-30-122, the board shall develop and annually review a written investment policy for the Colorado state university system, which policy shall include:

(a) An acknowledgment by the board of governors of the board's fiduciary responsibility with respect to oversight of the investment policy of the system; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of governors pursuant to sections 23-30-121 and 23-30-122.

(2) In selecting investment managers for the purposes of this section, the board of governors shall use an open and competitive process.

(3) If the board of governors votes to invest assets of the Colorado state university system pursuant to sections 23-30-121 and 23-30-122, the board shall require annual financial statements to be submitted to the board of governors, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements shall include, at a minimum, information concerning investment income, gains, and losses, if any, of the Colorado state university system. The financial statements shall report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(4) If the board of governors votes to invest moneys pursuant to sections 23-20-121 and 23-20-122, the board:



(a) Shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year; and

(b) Shall not use moneys invested in the wildfire emergency response fund created in section 23-31-309 (1) or the wildfire preparedness fund created in section 23-31-309 (4) for any academic or institutional obligations. For the purposes of paragraph (a) of this subsection (4), the board shall consider these funds to be outstanding operational obligations.

(5) The Colorado state university system shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of governors pursuant to sections 23-30-121 and 23-30-122.

**Source: L. 2008:** Entire section added, p. 344, § 6, effective April 10.

**23-30-124. Online university established - role and mission. (Repealed)**

**Source: L. 2009:** Entire section added, (SB 09-086), ch. 14, p. 83, § 1, effective March 18. **L. 2012:** Entire section repealed, (HB 12-1220), ch. 100, p. 337, § 13, effective August 8.

**ARTICLE 31**

**Colorado State University**

**Editor’s note:** This article was numbered as article 10 of chapter 124, C.R.S. 1963. The provisions of this article were amended with relocations in 2007, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

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## PART 1

## GENERAL PROVISIONS

**23-31-101. University established - role and mission.** There is hereby established a university at Fort Collins to be known as Colorado state university. Colorado state university shall be a comprehensive graduate research university with selective admission standards offering a comprehensive array of baccalaureate, master's, and doctoral degree programs. Consistent with the tradition of land grant universities, Colorado state university has exclusive authority to offer graduate and undergraduate programs in agriculture, forestry, natural resources, and veterinary medicine. The Colorado commission on higher education, in consultation with the board of governors of the Colorado state university system, shall designate those graduate level programs that are the primary responsibility of Colorado state university. Colorado state university has the responsibility to provide on a statewide basis, utilizing when possible and appropriate the faculty and facilities of other educational institutions, those graduate level programs. The commission shall include in its funding recommendations a level of general fund support for these programs.

**Source: L. 2007:** Entire article amended with relocations, p. 524, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-101 as it existed prior to 2007.

## ANNOTATION

**Law reviews.** For note, "The Problem of the Local Improvement District in Colorado", see 12 Rocky Mt. L. Rev. 45 (1939).

**23-31-102. Name changed.** The agricultural college at Fort Collins, declared to be an institution of the state by section 5 of article VIII of the state constitution as said section existed prior to January 11, 1973, and designated under the name and title of the "Colorado agricultural and mechanical college" by section 124-10-1, CRS 53, after May 1, 1957, shall be designated under the name and title of the "Colorado state university". The legal effect of any statute prior to May 1, 1957, designating such institution by any other name, or property rights acquired and obligations incurred prior to May 1, 1957, under any other name, shall not be impaired hereby.

**Source: L. 2007:** Entire article amended with relocations, p. 524, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-102 as it existed prior to 2007.

## ANNOTATION

**The name of this institution was changed to** Colorado state university by an act adopted in 1957. *Lewis v. State Bd. of Agric.*, 138 Colo. 540, 335 P.2d 546 (1959) (decided prior to 2007 amendment).

**23-31-103. Board to control college and lands.** The board of governors of the Colorado state university system has the general control and supervision of the Colorado state university and lands and the use thereof, which may be vested in the university by state or national legislation and of all appropriations made by the state for the support of the

same. The board has plenary power to adopt all such ordinances, bylaws, and regulations, not in conflict with the law, as they may deem necessary to secure the successful operation of the university and promote the designed objects.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-108 as it existed prior to 2007.

## ANNOTATION

**Annotator's note.** Since § 23-31-103 is similar to § 23-31-108 as it existed prior to the 2007 amendment to articles 30, 31, 32, 33, 34, 35, and 55 of title 23, which resulted in the relocation of provisions, relevant cases construing that provision have been included in the annotations to this section.

**The state board of agriculture, by law, is a separate corporate body** or entity created by the general assembly to carry out a specific delegated power. *Lewis v. State Bd. of Agric.*, 138 Colo. 540, 335 P.2d 546 (1959).

The board has only one power to wit: The power to do everything necessary or appropriate for the education of the students at the university, and that education includes the mental, physical, and social development of the stu-

dents. *Lewis v. State Bd. of Agric.*, 138 Colo. 540, 335 P.2d 546 (1959).

**Board has no power of taxation.** The state board of agriculture has no power of taxation; rather, the general assembly levies taxes and makes appropriations for the university. *Lewis v. State Bd. of Agric.*, 138 Colo. 540, 335 P.2d 546 (1959).

**State board of agriculture (SBA) was proper party appellant to challenge order requiring Colorado state university (CSU) to reinstate women's fast pitch softball team.** Though CSU maintains control over certain internal policies, SBA has general control and supervisory power over CSU including complete financial control. *Roberts v. Colo. State Bd. of Agric.*, 998 F.2d 824 (10th Cir. 1993).

**23-31-104. Who shall constitute faculty.** The president and the faculty shall constitute the faculty of the Colorado state university.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-113 as it existed prior to 2007, and the former § 23-31-104 was relocated to § 23-30-109.

**23-31-105. Duty of faculty.** The faculty shall have the responsibility for making academic policy and governing the academic affairs of the Colorado state university.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-115 as it existed prior to 2007, and the former § 23-31-105 was relocated to § 23-30-110.

**23-31-106. President - duties.** The president shall be chief executive officer of the Colorado state university, and it is his or her duty to see that the rules and regulations of the board of governors of the Colorado state university system and the faculty are observed and executed.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-117 as it existed prior to 2007, and the former § 23-31-106 was relocated to § 23-30-111.



**23-31-107. President may remove officers.** The subordinate officers and employees, not members of the faculty, shall be under the direction of the president and removable at his or her discretion. The president may fill vacancies of such subordinate officers and employees subject to his or her personnel power.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-118 as it existed prior to 2007, and the former § 23-31-107 was relocated to § 23-30-112.

**23-31-108. President may be professor.** The president may or may not perform the duties of a professor, as the board of governors of the Colorado state university system shall determine.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-119 as it existed prior to 2007, and the former § 23-31-108 was relocated to § 23-31-103.

**23-31-109. Report of experimental operations.** All agricultural operations shall be carried on experimentally for the instruction of the students and with a view to the improvement of the science of agriculture in the state of Colorado. Such reports as may be required by the board of governors of the Colorado state university system shall be submitted in accordance with the directions of the board.

**Source: L. 2007:** Entire article amended with relocations, p. 525, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-121 as it existed prior to 2007, and the former § 23-31-109 was relocated to § 23-30-116.

**23-31-110. Pledge of income from facilities or equipment.** (1) The board of governors of the Colorado state university system, designated in this section as the "board", is authorized to enter into a contract for the advancement of moneys for the acquisition of facilities or equipment, or both, for the Colorado state university auditorium-gymnasium, and in connection with or as a part of such contract to pledge the net income, or any part of such net income, to be derived from such facilities or equipment, or both, so acquired, and to pledge special student fees assessed for the purpose of financing such facilities or equipment, or both, as security for the repayment of the moneys advanced therefor, together with interest thereon. For the same purpose, the board is also authorized to pledge the net income derived from any similar facility or equipment, or portion thereof, which was not acquired with moneys appropriated to Colorado state university, if such net income derived from such similar facility or equipment, or portion thereof, is unpledged or, if pledged, is currently in excess of the amount required to amortize the advancements and interest thereon for which such net income has been obligated.

(2) The board shall not pledge the general income of Colorado state university or create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(3) Any advancement of moneys may be evidenced by revenue bonds or warrants to be executed by and on behalf of Colorado state university and containing such terms and provisions, including provisions for redemption prior to maturity and a maximum net effective interest rate, as may be determined by the board. Such revenue bonds or warrants shall bear interest at a rate such that the net effective interest rate of the issue of bonds does

not exceed the maximum net effective interest rate fixed, which interest shall be payable semiannually or annually. Such revenue bonds or warrants may be sold at less than par, but they may not be sold at a price such that the net effective interest rate of the issue of bonds or warrants exceeds the maximum net effective interest rate fixed. Any such revenue bonds or warrants may be refunded if in the judgment of the board such refunding is to the best interests of the university.

(4) If the net income derived from such facilities or equipment so acquired under the provisions of this section exceeds the amount required for the amortization of any advancement made therefor, together with interest thereon, the board may apply such surplus to the redemption of such securities prior to maturity of such securities according to redemption provisions thereof, or such surplus net income may be used by the board for the purposes of altering or adding to any existing equipment or facilities acquired pursuant to the provisions of this section.

(5) All obligations and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

**Source: L. 2007:** Entire article amended with relocations, p. 526, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-127 as it existed prior to 2007.

#### ANNOTATION

**It is within the constitutional and statutory powers of state university to issue revenue bonds.** The issuance of revenue bonds by a state university under this section and § 23-5-103, pledging excess revenues produced by one self-liquidating facility as security for the payment of revenue bonds issued for another project,

where all of the projects are related to the operation and maintenance of Colorado state university, does not offend any provision of the state constitution and is within the authority conferred by law. *Lewis v. State Bd. of Agric.*, 138 Colo. 540, 335 P.2d 546 (1959) (decided prior to 2007 amendment).

**23-31-111. Rents or charges for buildings and facilities for research.** The board of governors of the Colorado state university system is authorized to contract for or impose and collect rents or charges for the use of university buildings and facilities for research, including research conducted by or under the auspices of Colorado state university. Such rents or charges shall be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

**Source: L. 2007:** Entire article amended with relocations, p. 526, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-128 as it existed prior to 2007, and the former § 23-31-111 was relocated to § 23-30-118.

**23-31-112. Research building revolving fund - appropriation of fund.** There is established in the office of the state treasurer a fund to be known as the Colorado state university research building revolving fund, and there shall be credited to said fund the user charges or rents authorized by section 23-31-111 and imposed by the board of governors of the Colorado state university system, specific appropriations or grants or gifts made to said fund, the proceeds of the sale of anticipation warrants authorized by this section and sections 23-31-111 and 23-31-113, and the proceeds from the issuance and sale of bonds pursuant to section 23-31-117. No payments from student fees, tuition receipts, or general funds shall be deposited in the research building revolving fund. All interest earned on the investment of moneys in the fund shall be credited to the fund and shall be a part of the



fund, and such moneys shall not be transferred or credited to the general fund or to any other fund. All such moneys so credited to said fund are appropriated to Colorado state university for the payment of maintenance and operating costs for its research buildings and facilities and for planning, constructing, acquiring, renovating, and equipping research buildings and facilities, wherever located in the state of Colorado, for Colorado state university. Any such buildings and facilities shall be related to the research mission of the university.

**Source: L. 2007:** Entire article amended with relocations, p. 527, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-129 as it existed prior to 2007, and the former § 23-31-112 was relocated to § 23-30-119.

**23-31-113. Anticipation warrants.** The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of governors of the Colorado state university system, the total amount of which shall not exceed one million dollars, to be repaid exclusively from the user revenues accruing to the Colorado state university research building revolving fund as provided in this section and sections 23-31-111 and 23-31-112. The anticipation warrants shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of governors of the Colorado state university system.

**Source: L. 2007:** Entire article amended with relocations, p. 527, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-130 as it existed prior to 2007, and the former § 23-31-113 was relocated to § 23-31-104.

**23-31-114. Purchase of anticipation warrants.** It is lawful for any public entity, as defined in section 24-75-601 (1), C.R.S., to purchase anticipation warrants issued in pursuance of section 23-31-113 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not to exceed twenty percent of the total of any specific fund of such public entity shall be invested in such warrants.

**Source: L. 2007:** Entire article amended with relocations, p. 527, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-131 as it existed prior to 2007.

**23-31-115. Warrants as security - when.** Anticipation warrants issued in pursuance of this section and sections 23-31-111 to 23-31-114, 23-31-116, and 23-31-117 may be used as security for any depository bond or obligation where any kind of bonds or other securities must or may, by law, be deposited as security.

**Source: L. 2007:** Entire article amended with relocations, p. 527, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-132 as it existed prior to 2007, and the former § 23-31-115 was relocated to § 23-31-105.

**23-31-116. Tax exemption.** Any anticipation warrants issued pursuant to the provisions of section 23-31-113 by the board of governors of the Colorado state university system shall be exempt from taxation for state, county, school district, special district, municipal, or any other purpose in the state of Colorado.

**Source: L. 2007:** Entire article amended with relocations, p. 528, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-133 as it existed prior to 2007.

**23-31-117. Borrowing funds.** (1) For the purposes described in section 23-31-112, the board of governors of the Colorado state university system is authorized to:

(a) Enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advances with interest from the Colorado state university research building revolving fund; and

(b) Issue bonds as provided in this section.

(2) (a) Any bonds issued pursuant to this section shall mature at such time or times, shall bear or accrue interest at such rate or rates, and shall otherwise be sold and issued in such manner and on such terms as provided by the board of governors of the Colorado state university system.

(b) Such bonds shall be payable exclusively from, and shall be secured by a pledge of, the Colorado state university research building revolving fund created in section 23-31-112.

(c) The authority contained in this section to issue bonds shall be in addition to the authority granted to the board of governors of the Colorado state university system to issue anticipation warrants pursuant to section 23-31-113; except that nothing in this section shall be construed to authorize the issuance of bonds if by such issuance the obligation of any contract entered into with respect to any outstanding anticipation warrants would thereby be impaired.

(d) Any bonds issued pursuant to this section shall be exempt from taxation for state, county, school district, special district, municipal, or other purposes in the state of Colorado.

(e) Bonds issued pursuant to the provisions of this section shall not constitute a debt or an indebtedness of the state within the meaning of any applicable provision of the state constitution or state statutes.

**Source: L. 2007:** Entire article amended with relocations, p. 528, § 2, effective August 3; (2)(e) amended, p. 67, § 2, effective August 3.

**Editor's note:** (1) This section is similar to former § 23-31-134 as it existed prior to 2007, and the former § 23-31-117 was relocated to § 23-31-106.

(2) Subsection (2)(e) was originally numbered as § 23-31-134 (2)(e), and the amendments to it in Senate Bill 07-054 were harmonized with House Bill 07-1254 and relocated to this section.

**23-31-118. Advancement of moneys and pledge of income.** (1) The board of governors of the Colorado state university system, designated in this section as the "board", is authorized to enter into contracts for the advancement of moneys for the construction and acquisition of facilities or equipment, or both, for the Colorado state university veterinary medicine hospital, or any part thereof, and, in connection with or as a part of such contracts, to pledge revenues from a special hospital fee that the board shall collect pursuant to agreements entered into with or with respect to each accountable student as security for the repayment of the moneys advanced therefor, together with interest thereon. The maximum number of accountable students at any given time shall not exceed three hundred eight; except that, should the total enrollment in the professional veterinary medicine program exceed five hundred forty-eight head-count students, additional accountable students may not exceed forty-five percent of each admitted class. For purposes of this section, an "accountable student" is a person who, as of the date of his or her selection for admission into the professional veterinary medicine program, is not receiving funding, either from the state of Colorado or from a state that has entered into a cooperative agreement with the state of Colorado pursuant to section 24-60-601, C.R.S., for all or any portion of the costs incurred in participating in the professional veterinary medicine program. An agreement shall be entered into with or with respect to each accountable student, and each such agreement shall provide that, as a condition to that student's continued enrollment in the



professional veterinary medicine program, there shall be paid annually by or on behalf of the student the special hospital fee provided for in this section, which fee shall be fixed by the board annually in an amount sufficient to meet the obligation authorized by this section.

(2) The board shall annually assess each cooperative state or accountable student a support fee to reimburse Colorado for instructional costs. This support fee includes an equipment and renovation fee of one thousand one dollars assessed to each cooperative state or accountable student for acquisition or replacement of equipment and for renovation. Said equipment and renovation fee shall be credited to a separate reserve account for appropriation by the general assembly for such acquisition or replacement of equipment and such renovation. Colorado shall share proportionately in the acquisition or replacement of equipment and renovation projects. The amount to be paid by Colorado shall be determined by the annual ratio of Colorado students to accountable students based upon beginning enrollment of each school year. The fee required to be collected pursuant to this subsection (2) is based on a student's status as an "accountable student" at the time of selection for admission into the professional veterinary medicine program and shall not be reduced or waived regardless of the student's status as an in-state student, pursuant to the provisions of section 23-7-103, at any time during the student's participation in the professional veterinary medicine program.

(3) The board shall not pledge any income of the university except that authorized in subsection (1) of this section and shall not create any mortgage upon property belonging to such institution or obligate the state of Colorado for the purpose of repaying or receiving any funds raised or advanced under the provisions of this section.

(4) Any advancement of moneys, not to exceed two million five hundred thousand dollars, may be evidenced by revenue bonds or anticipation warrants to be executed by the board for and on behalf of Colorado state university and containing such terms and provisions, including provisions for adequate reserves and for redemption prior to maturity and a maximum net effective interest rate, as may be determined by the board. Such revenue bonds or anticipation warrants shall bear interest at a rate such that the net effective interest rate of the issue of bonds or anticipation warrants does not exceed the maximum net effective interest rate fixed, which interest shall be payable semiannually or annually. Such revenue bonds or warrants may be sold at less than par, but they may not be sold at a price such that the net effective interest rate of the issue of bonds or warrants exceeds the maximum net effective interest rate fixed. Any such revenue bonds or warrants may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the board such refunding is to the best interests of the university.

(5) If the sources of pledged revenues described in subsection (1) of this section exceed the amount required for the amortization of any advancement made pursuant to this section, and the payment of interest thereof, together with reserve requirements, the board may apply such surplus to the redemption of such securities prior to maturity of such securities according to redemption provisions thereof, or such surplus may be used by the board for the purposes of maintaining, repairing, altering, or adding to any existing equipment or facilities acquired pursuant to the provisions of this section for any lawful purpose.

(6) All obligations issued pursuant to this section and the income therefrom shall be exempt from taxation, except inheritance, estate, and transfer taxes.

(7) No action shall be brought questioning the legality of any contract, proceedings, revenue bonds, or anticipation warrants issued or to be issued by the board in connection with the provision of all or any part of the Colorado state university veterinary medicine hospital pursuant to this section after the expiration of thirty days from the effective date of any resolution or other official action authorizing such contract, adopting such proceedings, or authorizing the issuance of such warrants or bonds.

**Source: L. 2007:** Entire article amended with relocations, p. 529, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-31-135 as it existed prior to 2007, and the former § 23-31-118 was relocated to § 23-31-107.

**23-31-119. Plant breeding programs.** The board of governors of the Colorado state university system is authorized to initiate and expand plant breeding programs that will result in the development of disease-resistant varieties of crop plants, particularly of small grain varieties that are resistant to black stem rust disease, and to continue or expand any plant breeding program which may be necessary to protect important crops of Colorado from diseases that would endanger or seriously reduce the production of these crops in the state of Colorado.

**Source: L. 2007:** Entire article amended with relocations, p. 530, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-110 as it existed prior to 2007, and the former § 23-31-119 was relocated to § 23-31-108.

**23-31-120. Cooperation with other agencies.** The board of governors of the Colorado state university system may cooperate with the United States department of agriculture or any of its departments or agencies, the Colorado department of agriculture, other states, counties of Colorado, any organized group of Colorado citizens, and such other agencies, firms, or individuals as may be necessary or desirable to prosecute the provisions of this part 1.

**Source: L. 2007:** Entire article amended with relocations, p. 530, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-111 as it existed prior to 2007, and the former § 23-31-120 was relocated to § 23-30-120.

**23-31-121. Providing personnel, supplies.** The board of governors of the Colorado state university system, operating through the Colorado agricultural experiment station, may provide such personnel, funds, labor, material, and supplies as are necessary for the purposes specified in sections 23-31-119 and 23-31-120.

**Source: L. 2007:** Entire article amended with relocations, p. 531, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-112 as it existed prior to 2007, and the former § 23-31-121 was relocated to § 23-31-109.

**23-31-122. Agricultural extension service furnished counties.** Two or more counties may join in financing agricultural extension service furnished counties by the Colorado state university. In such event, each such county shall pay its pro rata share of the cost of such work as determined by negotiation between the board of governors of the Colorado state university system and the board of county commissioners of each such county.

**Source: L. 2007:** Entire article amended with relocations, p. 531, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-113 as it existed prior to 2007.

## PART 2

### FORESTRY

**23-31-201. Transfer to board of governors of the Colorado state university system - exceptions.** (1) There is transferred to and vested in the board of governors of the Colorado state university system, referred to in this part 2 as the "board", all rights, powers,



and duties for protecting, promoting, and extending the conservation of the forests in the state vested on or before February 14, 1955, in the state board of land commissioners, acting ex officio as the state board of forestry; but such authority shall not extend to nor include the power vested in the state board of land commissioners with respect to forest lands included in the public lands of the state under the control and jurisdiction of said state board of land commissioners, as provided by sections 9 and 10 of article IX of the state constitution and the laws relating thereto.

(2) (a) Effective July 1, 2012, the forestry functions of the board relating principally to fire and wildfire preparedness, response, suppression, coordination, or management are transferred by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the wildland fire management section in the division of fire prevention and control in the department of public safety created in section 24-33.5-1201, C.R.S.

(b) Nothing in paragraph (a) of this subsection (2) divests the board or the state forest service of any other personnel, functions, powers, or duties relating to forest resources, including risk education and prevention, forest health, management, stewardship, technical assistance, urban and community forestry, insect and disease monitoring and mitigation, research, education, outreach, planning, and fire ecology.

(c) Any and all claims, liabilities, and damages, including costs and attorneys' fees, relating in any way to the performance of duties described in paragraph (a) of this subsection (2) that were performed by the board or its employees on or before June 30, 2012, are hereby transferred to and assumed by the state exclusively through the division of fire prevention and control in the department of public safety, and no other public entity or agency, including the board and its employees, shall be responsible or liable for any such claims, liabilities, or damages that arose before June 30, 2012.

**Source:** **L. 2007:** Entire article amended with relocations, p. 531, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1066, § 2, effective July 1.

**Editor's note:** This section is similar to former § 23-30-201 as it existed prior to 2007.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-202. Powers and duties of board of governors of the Colorado state university system.** (1) The authority granted to the board by section 23-31-201 includes the following powers and duties:

(a) To provide for the protection of the forest resources of the state, both public and private, from insects and diseases;

(b) To foster and promote the control of soil erosion on such forest lands;

(c) To carry on an educational program with landowners, in the application of the practice of forestry on forest lands, by the growing, harvesting, and marketing of forest products from such lands;

(d) To disseminate information and statistics concerning forests and forestry in the state, subject to the control and approval of the executive director of the department of natural resources;

(e) To conduct investigations and experiments tending to further the intent of this part 2;

(f) To report to the executive director of the department of natural resources at such times and on such matters as the executive director may require; and

(g) To cooperate with all agencies of the state which need and request the aid and assistance of a trained forester.

(2) In addition to the powers and duties set forth in subsection (1) of this section, the board of governors of the Colorado state university system shall enter into an agreement with the executive director of the department of natural resources pursuant to section 24-33-201 (1), C.R.S.

**Source:** L. 2007: Entire article amended with relocations, p. 531, § 2, effective August 3. L. 2012: IP(1) and (1)(a) amended, (HB 12-1283), ch. 240, p. 1067, § 3, effective July 1.

**Editor's note:** This section is similar to former § 23-30-202 as it existed prior to 2007.

**Cross references:** For the legislative declaration in the 2012 act amending the introductory portion to subsection (1) and subsection (1)(a), see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-203. Cooperation with governmental units. (Repealed)**

**Source:** L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. L. 2012: Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-203 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1218 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-204. Forest fires - duty of sheriff to report. (Repealed)**

**Source:** L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3. L. 2012: Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-204 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1219 in 2012.

**Cross references:** (1) For additional duties of sheriffs as to forest fires, see §§ 30-10-512, 30-10-513, and 30-10-513.5.

(2) For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-205. Provisions of act of congress accepted.** The state of Colorado does hereby accept the provisions of the act of congress dated June 7, 1924, entitled "Clarke-McNary Law", as amended.

**Source:** L. 2007: Entire article amended with relocations, p. 532, § 2, effective August 3.

**Editor's note:** (1) This section is similar to former § 23-30-205 as it existed prior to 2007.  
(2) The "Clarke-McNary Law", as referenced in this section, refers to the federal "Clarke-McNary Act (Reforestation)" and was found in title 16, U.S.C., before its repeal effective July 1, 1978.

**23-31-206. Cooperative agreements.** (1) The board is further authorized to enter into cooperative agreements with federal and state agencies to promote and carry out the intent and purposes of this part 2, and in carrying out the provisions of all federal acts providing funds to promote the practice of forestry; and, for the purpose of continued acceptance and participation in the provisions of the act of congress dated June 7, 1924, entitled the "Clarke-McNary Law", the board is designated as the agency of the state to administer and expend any federal appropriations received under said act of congress, pursuant to section 23-31-205.

(2) Notwithstanding any provision of law to the contrary, including the transfer of functions effected by House Bill 12-1283, enacted in 2012, all interagency agreements



regarding wildfire and prescribed fire management and control that are in effect as of July 1, 2012, to which the state forest service, or the board on its behalf, is a party, shall remain in full force and effect.

**Source: L. 2007:** Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1067, § 4, effective July 1.

**Editor's note:** (1) This section is similar to former § 23-30-206 as it existed prior to 2007.

(2) The "Clarke-McNary Law", as referenced in this section, refers to the federal "Clarke-McNary Act (Reforestation)" and was found in title 16, U.S.C., before its repeal effective July 1, 1978.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-207. Employees and personnel.** The board is authorized to employ the necessary professional, clerical, and other personnel needed to carry out this part 2. Persons employed in a technical forestry capacity must have completed the requirements for and received a degree from an accredited school of forestry. Persons employed in other technical fields must have completed the requirements for and received a degree from an accredited school in their professional field. The board may appoint, pursuant to its personnel powers, in consultation with the executive director of the department of natural resources, to carry out the provisions of this part 2 and part 3 of this article, a professional forester, to be known as the state forester, whose duties shall be primarily of an educational or regulatory nature.

**Source: L. 2007:** Entire article amended with relocations, p. 532, § 2, effective August 3. **L. 2010:** Entire section amended, (HB 10-1071), ch. 44, p. 170, § 1, effective March 29.

**Editor's note:** This section is similar to former § 23-30-207 as it existed prior to 2007.

**23-31-208. Rights by succession to state board of land commissioners - transfers to division of fire prevention and control.** (1) (a) On February 14, 1955, the board shall succeed to all records, documents, and equipment in the hands of the state board of land commissioners as pertain to and used by the state board of land commissioners in the performance of the rights, powers, and duties transferred, and the state board of land commissioners is directed to deliver said property to the board within a reasonable time.

(b) On February 14, 1955, the state treasurer and the controller shall transfer to the board all funds, including federal grants-in-aid, remaining to the credit of the state board of land commissioners and appropriated or received for the administration of the rights, powers, and duties transferred by this section; but the transfer of funds shall not apply to any moneys appropriated for forest administration from the land commissioners' expense fund.

(2) On July 1, 2012, the board's funds, moneys, positions of employment, personnel, and personal property that were, as of June 30, 2012, principally directed to fire and wildfire preparedness, response, suppression, coordination, or management and any and all claims and liabilities, whether known or unknown, asserted or unasserted, relating in any way to fire and wildfire preparedness, response, suppression, coordination, or management by the board, the state forest services or its employees on or before June 30, 2012, are transferred to the division of fire prevention and control in the department of public safety pursuant to section 24-33.5-1201, C.R.S.

**Source: L. 2007:** Entire article amended with relocations, p. 533, § 2, effective August 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1068, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-30-208 as it existed prior to 2007.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

## PART 3

## STATE FOREST SERVICE

**23-31-301. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The management of Colorado's state-owned forested land has far-reaching impacts on overall forest condition, risk of wildfire, water quantity and quality, and wildlife habitat;

(b) The unnatural condition of many forests throughout the state leaves them at great risk to catastrophic fires, invasion by exotic and native pest species, and other types of damage on a landscape scale;

(c) As a result of the 2002 wildfire season, the worst in Colorado's recorded history, in which two thousand twelve fires consumed over half a million acres of forested land:

(I) Local, state, and federal agencies incurred one hundred fifty-two million dollars in suppression costs and at least fifty million dollars to date in rehabilitation costs on United States forest service land alone; and

(II) Eighty-one thousand four hundred thirty-five residents had to be evacuated from their homes;

(d) Excessive runoff and soil erosion that occurs following wildfires poses a substantial threat to water quantity and quality in areas dependent on forest watersheds, including water supplies and wildlife;

(e) Since 1937, United States forest service scientists have been studying the relationship between forests and water yields in the Fraser experimental forest in western Colorado and have found that unnaturally overgrown stands reduce water yields and that carefully applied natural forest management practices can conserve a more natural water yield;

(f) Decades of scientific research have built a foundation of knowledge and technologies to inform and implement sound forest management and conservation;

(g) Robust, resilient forest conditions that sustain diverse forest stages are essential for productive habitat, healthy populations of wildlife, and improved water quality and quantity for Colorado's fisheries;

(h) Sound forest management activities, such as thinning, prescribed burning, and insect and disease treatments, improve the overall diversity and vigor of forested landscapes as well as the condition of related water, wildlife, recreation, and aesthetic resources;

(i) The Colorado state forest service has worked cooperatively and successfully with the division of parks and wildlife and the state board of land commissioners to improve the condition of forested land and wildlife habitat in selected project areas;

(j) The executive director of the department of natural resources is authorized to enter into an agreement with the board of governors of the Colorado state university system to work cooperatively with the Colorado state forest service and to provide staff for the division of forestry to carry out its mission of improving the health and sustainability of Colorado's forested state land.

(2) The general assembly hereby declares that it is the public policy of this state to encourage the health of forest ecosystems through responsible management of the forest land of the state and through coordination with the United States secretary of the interior and the United States secretary of agriculture to develop management plans for federal lands within the state of Colorado pursuant to 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712, including the use of pre-suppression activities, such as the harvest of materials, in order to preserve forest and other natural resources, enhance the growth and maintenance of forests, conserve forest cover on watersheds, protect recreational, wildlife, and other values, promote stability of forest-using industries, and prevent loss of life and damage to property from wildfires and other conflagrations.

**Source:** L. 2007: Entire article amended with relocations, p. 533, § 2, effective August 3. L. 2012: (2) amended, (HB 12-1283), ch. 240, p. 1068, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-30-301 as it existed prior to 2007.



**Cross references:** For the legislative declaration in the 2012 act amending subsection (2), see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-302. Forestry function named.** The forestry function of the board of governors of the Colorado state university system shall be known as the “Colorado state forest service”.

**Source: L. 2007:** Entire article amended with relocations, p. 534, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-30-302 as it existed prior to 2007.

**23-31-303. Funds available.**

(1) Repealed.

(2) The beetle mitigation fund is hereby created in the state treasury to be administered by the Colorado state forest service for the purpose of removing trees infested by beetles from forests on state-owned land and otherwise mitigating the effects of beetle infestation on state-owned land. The fund shall consist of donations received pursuant to subsection (3) of this section.

(3) The Colorado state forest service shall create and maintain one or more web pages on its official web site that provide information on the beetle mitigation fund to the public and that allow the public to donate to the fund online. Web sites operated by other interested state departments shall add prominent links referring the public to the Colorado state forest service’s beetle mitigation fund web page to encourage voluntary contributions to the fund. The Colorado state forest service shall transmit all such contributions to the state treasurer, who shall deposit them in the fund.

**Source: L. 2007:** Entire article amended with relocations, p. 534, § 2, effective August 3. **L. 2008:** Entire section amended, p. 1553, § 1, effective August 5. **L. 2009:** (1) amended, (SB 09-020), ch. 189, p. 828, § 2, effective April 30. **L. 2012:** (1) repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor’s note:** (1) This section is similar to former § 23-30-303 as it existed prior to 2007.

(2) Subsection (1) was relocated to § 24-33.5-1220 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing subsection (1), see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-304. State responsibility determined. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2009:** Entire section amended, (SB 09-020), ch. 189, p. 828, § 3, effective April 30. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor’s note:** (1) This section was similar to former § 23-30-304 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1221 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-305. Cooperation by counties. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor’s note:** (1) This section was similar to former § 23-30-305 as it existed prior to 2007.

(2) This section was relocated to § 24-33.5-1222 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-306. Sheriffs to enforce. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-306 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1223 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-307. Limitation of state responsibility. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-307 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1224 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-308. Emergencies. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-308 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1225 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

### **23-31-309. Wildfire emergency response fund - creation - wildfire preparedness fund - creation. (Repealed)**

**Source: L. 2007:** Entire article amended with relocations, p. 535, § 2, effective August 3. **L. 2009:** (6) added, (SB 09-001), ch. 30, p. 127, § 3, effective August 5. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

**Editor's note:** (1) This section was similar to former § 23-30-310 as it existed prior to 2007.  
(2) This section was relocated to § 24-33.5-1226 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-31-310. Forest restoration program - definitions - technical advisory panel - repeal.** (1) **Short title.** This section shall be known and may be cited as the "Colorado Forest Restoration Act".

(2) **Definitions.** As used in this section, unless the context otherwise requires:



(a) “Accredited Colorado youth corps” means a youth corps organization that is accredited by the Colorado youth corps association.

(b) “Director” means the executive director of the department of natural resources created in section 24-1-124, C.R.S.

(c) “Forest service” means the Colorado state forest service identified in section 23-31-302 and the division of forestry created in section 24-33-104, C.R.S.

(d) “Stakeholder” means county and municipal governments, educational institutions, landowners, and other interested public and private entities.

(3) **Forest restoration program.** The forest service shall issue a statewide request for proposals for cost-share grants to stakeholders for experimental forest restoration projects that are designed through a collaborative community process. The projects may be entirely on, or on any combination of, private, federal, state, county, or municipal forest lands. The state share of an individual project cost shall not exceed sixty percent of the total cost of the project or exceed one million dollars per project. The remaining portion of the project’s funding may be in the form of cash, stumpage, or in-kind contribution.

(4) **Eligibility requirements.** To be eligible to receive funding under this section, a project shall:

(a) Be located in an area with an approved community wildfire protection plan as defined by the federal “Healthy Forests Restoration Act of 2003”, Pub.L. 108-148;

(b) Address one or more of the following objectives for the purpose of protecting water supplies:

(I) Reducing the threat of large, high-intensity wildfires and the negative effects of excessive competition between trees by restoring ecosystem functions, structures, and species composition, including the reduction of nonnative species populations;

(II) Preserving old and large trees to the extent consistent with ecological values and science;

(III) Replanting trees in deforested areas if such areas exist in the proposed project area; and

(IV) Improving the use of, or adding value to, small diameter trees;

(c) Comply with all applicable federal and state environmental laws;

(d) Include a diverse and balanced group of stakeholders as well as appropriate federal, state, county, and municipal government representatives in the design, implementation, and monitoring of the project;

(e) Incorporate current scientific forest restoration information;

(f) Include an assessment to:

(I) Identify both the existing ecological condition of the proposed project area and the desired future condition; and

(II) Report, upon project completion, to the forest service on the positive or negative impact and including cost effectiveness of the project; and

(g) Leverage state funding through in-kind, stumpage, or cash matching contributions.

(5) **Technical advisory panel.** The director shall convene a technical advisory panel to evaluate the proposals for forest restoration demonstration grants and provide recommendations regarding which proposals would best meet the objectives of this section. The panel shall consider eligibility criteria established in subsection (4) of this section, a project’s effect on long-term forest management number of acres treated for state dollars spent, and seek to use a consensus-based decision-making process to develop such recommendations. The panel shall be composed of seven to eleven members, to be appointed by the director as follows:

(a) An official to represent the department of natural resources;

(b) At least one representative from federal land management agencies;

(c) At least two independent scientists with experience in forest ecosystem restoration; and

(d) Equal representation from:

(I) Conservation interests;

(II) Local communities; and

(III) Commodity interests.

(6) **Proposal selection.** After consulting with the technical advisory panel established in subsection (5) of this section, the forest service shall select the proposals that will receive funding through this section. In carrying out the program and approved projects to provide forest restoration activities, the forest service and stakeholders shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor.

(7) Repealed.

(8) **Administrative costs.** The forest service may utilize no more than three percent of any amounts appropriated in any fiscal year for its direct and indirect costs in administering the program.

(8.5) **Forest restoration program cash fund.** There is hereby created in the state treasury the forest restoration program cash fund. The department of higher education shall administer the fund, which consists of all moneys transferred by the treasurer as specified in section 39-29-109.3 (2) (k), C.R.S. All moneys in the fund are continuously appropriated to the department of higher education for allocation to the board of governors of the Colorado state university system for the forest restoration program specified in this section. All moneys in the fund at the end of each fiscal year remain in the fund and do not revert to the general fund or any other fund.

(9) **Repeal.** This section is repealed, effective September 1, 2017. Prior to such repeal, the department of regulatory agencies shall review the technical advisory panel as provided in section 2-3-1203, C.R.S.

**Source:** **L. 2007:** Entire section added, p. 1324, § 1, effective May 29. **L. 2008:** (8.5) added and (9) amended, pp. 1535, 1534, §§ 6, 1, effective May 28. **L. 2012:** (6), (8), (8.5), and (9) amended and (7) repealed, (HB 12-1032), ch. 69, p. 238, § 1, effective March 24.

**Editor's note:** This section was numbered as § 23-30-311 in House Bill 07-1130 but was harmonized with House Bill 07-1254 and relocated to § 23-30-310.

**23-31-311. Watershed protection projects and forest health projects.** (1) The Colorado state forest service, representing the state of Colorado, shall, in consultation with the governmental agencies participating in such projects, identify watershed protection projects and forest health projects that will use moneys received pursuant to section 37-95-112.5, C.R.S., including, but not limited to, the harvesting of trees infested with beetles.

(2) The Colorado state forest service shall collaborate with water providers; federal, state, and local governments; educational institutions; landowners; and other interested public and private entities to recommend the use of moneys made available pursuant to section 37-95-112.5, C.R.S. This process shall consider:

(a) Areas that have the highest priority for ecological or wildfire hazard reduction restoration;

(b) Areas that have been prioritized for treatment by a local or regional forest collaborative process or through a comparable stakeholder process; or

(c) (I) Watershed protection projects and forest health projects on private, state, and federal lands, including national forest and other federal lands that serve as the primary source of water to communities and municipalities and for agricultural purposes.

(II) In identifying such watershed protection projects and forest health projects, consideration shall be made to effectively use available resources by:

(A) Applying the principles of the state of Colorado good neighbor authority programs entered into between the Colorado state forest service and the United States forest service and between the Colorado state forest service and the United States bureau of land management;

(B) Combining available resources with federal grant money, if any, and other complementary funding resources that are available for such projects or similar projects; and

(C) Partnering on such projects being planned or conducted by governmental agencies with land management jurisdiction in community and municipal watersheds.



(3) In carrying out such watershed protection projects and forest health projects, the Colorado state forest service shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor. For purposes of this section:

(a) "Accredited Colorado youth corps" means a youth corps organization that is accredited by the Colorado youth corps association.

(b) "Forest health project" has the meaning set forth in section 37-95-103, C.R.S.

(c) "Governmental agencies" has the meaning set forth in section 37-95-112.5 (4), C.R.S.

(d) "Watershed protection project" has the meaning set forth in section 37-95-103, C.R.S.

**Source: L. 2008:** Entire section added, p. 1542, § 6, effective July 1. **L. 2009:** (3)(c) amended, (SB 09-292), ch. 369, p. 1966, § 72, effective August 5.

**23-31-312. Community wildfire protection plans - county governments - guidelines and criteria - legislative declaration - definitions.** (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Community wildfire protection plans, or CWPPs, are authorized and defined in section 101 of Title I of the federal "Healthy Forests Restoration Act of 2003", Pub.L. 108-148, referred to in this section as "HFRA". Title I of HFRA authorizes the secretaries of agriculture and the interior to expedite the development and implementation of hazardous fuel reduction projects on federal lands managed by the United States forest service and the bureau of land management when these agencies meet certain conditions. HFRA emphasizes the need for federal agencies to work collaboratively with local communities in developing hazardous fuel reduction projects, placing priority on treatment areas identified by the local communities themselves in a CWPP. The wildland-urban interface area is one of the identified property areas that qualify under HFRA for the use of this expedited environmental review process.

(II) The development of a CWPP can assist a local community in clarifying and refining its priorities for the protection of life, property, and critical infrastructure in its wildland-urban interface area. The CWPP brings together diverse federal, state, and local interests to discuss their mutual concerns for public safety, community sustainability, and natural resources. The CWPP process offers a positive, solution-oriented environment in which to address challenges such as local fire-fighting capability, the need for defensible space around homes and housing developments, the effect of fire ratings and combustibility standards for building materials used in wildland-urban interface areas, and where and how to prioritize land management on both federal and nonfederal lands. CWPPs can be as simple or complex as a local community desires.

(III) The adoption of a CWPP brings many benefits to the state and adopting local community, including:

(A) The opportunity to establish a locally appropriate definition and boundary for the wildland-urban interface area;

(B) The establishment of relations with other state and local government officials, local fire chiefs, state and national fire organizations, federal land management agencies, private homeowners, electric, gas, and water utility providers in the subject area, and community groups, thereby ensuring collaboration among these groups in initiating a planning dialogue and facilitating the implementation of priority actions across ownership boundaries;

(C) Specialized natural resource knowledge and technical expertise relative to the planning process, particularly in the areas of global positioning systems and mapping, vegetation management, assessment of values and risks, and funding strategies; and

(D) Statewide leadership in developing and maintaining a list or map of communities at risk within the state and facilitating work among federal and local partners to establish priorities for action.

(IV) CWPPs give priority to projects that provide for the protection of at-risk communities or watersheds or that implement recommendations in the CWPP.

(V) CWPPs assist local communities in influencing where and how federal agencies implement fuel reduction projects on federal lands, how additional federal funds may be distributed for projects on nonfederal lands, and in determining the types and methods of treatment that, if completed, would reduce the risk to the community.

(VI) The development of CWPPs promotes economic opportunities in rural communities.

(b) By enacting this section, the general assembly intends to facilitate and encourage the development of CWPPs in counties with fire hazard areas in their territorial boundaries and to provide more statewide uniformity and consistency with respect to the content of CWPPs in counties needing protection against wildfires.

(2) As used in this section, unless the context otherwise requires:

(a) “CWPP” means a community wildfire protection plan as authorized and defined in section 101 of Title I of the federal “Healthy Forests Restoration Act of 2003”, Pub.L. 108-148.

(b) “Fire hazard area” means an area mapped by the Colorado state forest service, identified in section 23-31-302, as facing a substantial and recurring risk of exposure to severe fire hazards.

(3) Not later than November 15, 2009, the state forester, in collaboration with representatives of the United States forest service, the Colorado department of natural resources, county governments, municipal governments, local fire departments or fire protection districts, electric, gas, and water utility providers in the subject area, and state and local law enforcement agencies, shall establish guidelines and criteria for counties to consider in preparing their own CWPPs to address wildfires in fire hazard areas within the unincorporated portion of the county.

(4) The adoption of a CWPP by a county government shall be governed by the requirements of section 30-15-401.7, C.R.S.

(5) The state forester shall send timely notice of the guidelines and criteria established pursuant to subsection (3) of this section to the department of local affairs and to statewide organizations representing Colorado counties and municipalities and shall post such information on the web site of the Colorado state forest service.

(6) Nothing in this section shall be construed to affect the provisions of section 23-31-309 or the wildfire preparedness plan developed pursuant to such section.

**Source: L. 2009:** Entire section added, (SB 09-001), ch. 30, p. 123, § 1, effective August 5.

### **23-31-313. Healthy forests - vibrant communities - funds created - repeal.**

(1) **Short title.** This section shall be known and may be cited as the “Colorado Healthy Forests and Vibrant Communities Act of 2009”.

(2) **Legislative declaration.** The general assembly hereby declares that addressing the wildfire risk in Colorado and the development of community wildfire protection plans to bring together federal, state, and local interests, including nongovernmental entities such as electric, gas, and water utilities, to address wildfire risk to life, property, and infrastructure in Colorado is a matter of statewide concern.

(3) **Definitions.** As used in this section, unless the context otherwise requires:

(a) “Community-based collaborative process” means a process in which a diverse range of governmental and nongovernmental stakeholders, representing a wide variety of perspectives, are meaningfully engaged in analyzing and identifying forest management needs for their community.

(b) “Community wildfire protection plan” or “CWPP” means a plan that meets the definition of a community wildfire protection plan in the federal “Healthy Forests Restoration Act of 2003”, 16 U.S.C. sec. 6511, including the minimum requirements for collaboration with local and state government representatives, including conservation districts created pursuant to article 70 of title 35, C.R.S., and county noxious weed program administrators and consultation with federal agencies and other interested nongovernmental parties, including any electric, gas, and water utilities in the affected area, and the minimum



requirements for approval by representatives of local government, local fire authorities, and the forest service.

(c) "Forest service" means the Colorado state forest service identified in section 23-31-302.

(d) "GIS" means a geographical information system, a systematic integration of computer hardware, software, and spatial data, for capturing, storing, displaying, updating, manipulating, and analyzing geographical information in order to solve complex management problems.

(e) "Good neighbor authority" means the authority of the state of Colorado pursuant to section 331 of the federal "Department of Interior and Related Agencies Appropriation Act of 2001", Pub.L. 106-291, 114 Stat. 922, or any analogous successor authority.

(f) "Temporary field capacity" means full-time, temporary field support hired by the forest service to implement projects until such time that program funding is no longer available.

(g) "Wildfire risk mitigation" or "fuel mitigation treatments" means preventive forest management projects or actions, which meet or exceed forest service standards or any other applicable state rules, that are designed to reduce the potential for unwanted impacts caused by wildfires, including:

(I) The creation of a defensible space around structures;

(II) The establishment of fuel breaks;

(III) The thinning of woody vegetation for the primary purpose of reducing risk to structures from wildland fire;

(IV) The secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from the site, or prescribed burning; and

(V) Other nonemergency preventive activities designed to reduce the unwanted impacts caused by wildfires that the forest service may deem to be risk reduction or fuel mitigation treatments.

(4) **Community and firefighter planning and preparedness.** To help ensure that communities and firefighters have sufficient resources, technical support, and training to adequately assess wildfire risks, the forest service shall:

(a) Facilitate the CWPP process with communities and other entities seeking to prepare a CWPP to ensure that state and federal CWPP standards are met;

(b) Work with conservation districts created pursuant to article 70 of title 35, C.R.S., county noxious weed program administrators, and other state, local, federal, and nongovernmental partners, including any electric, gas, and water utilities in the affected area, to provide CWPP standards for Colorado that promote greater consistency among CWPPs in the state and ensure that communities address community risks and values, identify protection priorities, assess their ability to respond to wildland fire, establish fuels treatment projects, and identify ways to minimize wildland-urban interface risk in the future;

(c) Provide technical assistance to communities seeking to prepare, update, or implement a CWPP and track the progress of CWPPs and implementation practices through GIS web-based applications;

(d) Provide technical assistance to the board of county commissioners of each county to determine whether there are fire hazard areas within the unincorporated areas of the county and to assist the board of county commissioners of each county with developing CWPPs for those areas; and

(e) Repealed.

(5) **Community wildfire risk mitigation.** To help communities address the urgent need to reduce wildfire risks by supporting implementation of risk mitigation treatments that focus on protecting lives, homes, and essential community infrastructure, and by improving inventory and monitoring of forest conditions, the forest service shall:

(a) Expand its fuels mitigation program through sixty percent cost-share grants to address needs expressed by landowners or utility easement owners in the wildland-urban interface. In order to qualify for these funds, projects shall be included in or provide for implementation of an approved CWPP that meets the standards established pursuant to paragraph (b) of subsection (4) of this section. In awarding these grants, the forest service shall establish evaluation criteria that emphasize projects that reduce risks to the public.

firefighters, and community infrastructure; that improve forest health; and that substantially leverage additional financial resources. In making grant awards, the forest service shall also prioritize projects that provide an opportunity to implement Colorado's good neighbor authority or that have been identified through a community-based collaborative process.

(b) Hire additional temporary field capacity to support the implementation and monitoring of fuels mitigation grant awards;

(c) Provide sufficient resources to conduct enhanced aerial surveys to annually assess forest conditions, identify emerging and existing insect and disease epidemics, and make timely management decisions; and

(d) Provide sufficient resources to assess and incorporate forest pathology information into analysis of forest conditions and trends.

(6) **Community watershed restoration.** (a) In order to support communities and land managers in moving from risk reduction to long-term ecological restoration so that the underlying condition of Colorado's forests supports a variety of values, particularly public water supply and high-quality wildlife habitat, the forest service shall:

(I) (A) Hire additional temporary field capacity to support the implementation and monitoring of forest restoration program grants awarded pursuant to section 23-31-310.

(B) In awarding grants pursuant to section 23-31-310, the forest service shall give additional emphasis to projects that substantially leverage additional financial resources, that provide an opportunity to implement Colorado's good neighbor authority, or that have been identified through a community-based collaborative process.

(II) Facilitate and work collaboratively with landowners, local governments, including conservation districts created pursuant to article 70 of title 35, C.R.S., and county noxious weed program administrators and other appropriate parties, including any electric, gas, and water utilities in the affected area, to design and safely implement prescribed fire projects and to encourage increased responsible use of prescribed fire as a tool for restoring healthy forest conditions consistent with programs established pursuant to section 25-7-106 (7) and (8), C.R.S. The forest service shall emphasize providing training and technical assistance for landowners, local communities, and state agencies.

(III) Repealed.

(b) (I) The forest service may use up to one million dollars annually until July 1, 2017, from the forest restoration program cash fund created in section 23-31-310 (8.5) for the purpose of complying with this subsection (6).

(II) This paragraph (b) is repealed, effective July 1, 2018.

(7) **Enhanced economic opportunities.** In order to support local business development and job creation through the implementation of forest treatments, the forest service shall:

(a) Administer a revolving loan fund to support woody biomass utilization and the development and marketing of traditional and nontraditional timber products as specified in subsection (8) of this section;

(b) Work with the Colorado energy office created in section 24-38.5-101, C.R.S., and the air quality control commission created in section 25-7-104, C.R.S., to support the appropriately increased use of woody biomass in bio-heating.

(8) **Wildfire risk mitigation loan program.** (a) The forest service shall issue a statewide request for proposals for loans to businesses to provide start-up capital for new facilities or equipment to harvest, remove, use, and market beetle-killed and other timber taken from private, federal, state, county, or municipal forest lands as part of a wildfire risk reduction or fuels mitigation treatment.

(b) The forest service shall solicit applications for and make loans under this section. In deciding whether to make a loan, the forest service shall consider the extent to which the applicant:

(I) Helps retain or expand other local businesses;

(II) Helps maintain or increase the number of jobs in the area;

(III) Contributes to the stability of rural communities;

(IV) Demonstrates operational experience and a good reputation;

(V) Promotes and publicizes the efforts undertaken pursuant to this section; and

(VI) Helps recruit new business activity in the area.



(c) No later than July 1, 2010, the state forester shall submit a report to the governor that shall include an assessment of whether, and to what extent, projects funded by loans under this subsection (8) have achieved the purposes identified in this subsection (8).

(d) There is hereby created in the state treasury the wildfire risk mitigation revolving fund, which shall be administered by the forest service. All moneys in the fund are continuously appropriated to the department of higher education for allocation to the board of governors of the Colorado state university system for loans specified in this subsection (8). All moneys in the fund at the end of each fiscal year shall be retained in the fund and shall not revert to the general fund or any other fund.

(9) **Improved outreach and technical assistance.** In order to ensure that the forest service has the capacity to deliver key funding and technical assistance that will be needed to guide and support implementation of wildfire preparedness, risk mitigation, watershed restoration, and economic development initiatives in a way that adds value to these efforts at the state level and across community boundaries, the forest service shall:

(a) Secure full-time temporary staff for developing, revising, and implementing CWPPs; developing and implementing risk mitigation and watershed restoration plans; strengthening the responsible use of prescribed fire; and supporting economically beneficial uses of woody biomass;

(b) Secure sufficient GIS capacity to assist with wildfire, insect, and disease risk assessments, as well as landscape-scale prioritization and planning; and emphasize making data available to and usable by local entities and other interested parties, including any electric, gas, and water utilities in the affected area; and

(c) Develop a web-based clearinghouse for technical assistance and funding resources relevant to the initiatives established in this section.

(10) **Healthy forests and vibrant communities fund.** (a) There is hereby created in the state treasury the healthy forests and vibrant communities fund. The fund shall consist of all moneys that may be appropriated thereto by the general assembly, all private and public moneys received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund, and all moneys transferred to the fund pursuant to section 39-29-109.3 (2) (n), C.R.S. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes specified in this subsection (10) and shall remain available until expended. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(b) By executive order or proclamation, the governor may access and designate moneys in the healthy forests and vibrant communities fund for healthy forests and vibrant communities activities, subject to paragraph (c) of this subsection (10). The state forest service shall implement the directives set forth in such executive order or proclamation.

(c) Of the moneys transferred to the fund pursuant to section 39-29-109.3 (2) (n), C.R.S.:

(I) Four hundred seventy-five thousand dollars may be expended for purposes specified in subsection (4) of this section;

(II) Two hundred thousand dollars may be expended for purposes specified in subsection (5) of this section;

(III) One hundred thousand dollars may be expended for purposes specified in subsection (6) of this section;

(IV) Sixty-five thousand dollars may be expended for purposes specified in subsection (7) of this section;

(V) Two hundred thousand dollars may be expended for purposes specified in subsection (8) of this section;

(VI) Three hundred sixty thousand dollars may be expended for purposes specified in subsection (9) of this section; and

(VII) Up to fifty thousand dollars may be expended for the purposes specified in section 25-7-111 (5), C.R.S.

(11) **Reporting.** No later than January 1, 2011, the state forester shall submit a report to the joint budget committee of the general assembly, the agriculture, livestock, and natural resources committee of the house of representatives, and the agriculture and natural

resources committee of the senate, or any successor committees, on the use of moneys in the healthy forests and vibrant communities fund.

(12) Notwithstanding any other provision of this section, the forest service's duties pursuant to this section shall be reduced pro rata with any reduction in the funding specified in this section.

(13) In carrying out projects pursuant to this section, the forest service shall, whenever feasible, contract with the Colorado youth corps association or an accredited Colorado youth corps to provide labor. For purposes of this subsection (13), "accredited Colorado youth corps" means a youth corps organization that is accredited by the Colorado youth corps association.

**Source: L. 2009:** Entire section added, (HB 09-1199), ch. 411, p. 2271, § 1, effective June 3; (10)(c)(II), (10)(c)(IV), (10)(c)(V), and (10)(c)(VI) amended, (SB 09-293), ch. 370, p. 2009, § 2, effective June 1. **L. 2010:** (6)(a)(III) added, (SB 10-102), ch. 101, p. 343, § 1, effective April 15. **L. 2012:** (6)(a)(I)(A) and (6)(b) amended, (HB 12-1032), ch. 69, p. 239, § 2, effective March 24; (4)(e) and (6)(a)(III) repealed, (HB 12-1283), ch. 240, p. 1137, §§ 56, 55, effective July 1; (7)(b) amended, (HB 12-1315), ch. 224, p. 961, § 12, effective July 1.

**Editor's note:** Subsection (6)(a)(III) was relocated to § 24-33.5-1217 in 2012.

**Cross references:** For the legislative declaration in the 2012 act repealing subsections (4)(e) and (6)(a)(III), see section 1 of chapter 240, Session Laws of Colorado 2012.

#### **23-31-314. Colorado forest biomass use work group - repeal. (Repealed)**

**Source: L. 2011:** Entire section added, (SB 11-267), ch. 302, p. 1451, § 2, effective June 8. **L. 2012:** (1)(e), IP(2)(b)(I), and (4) amended, (HB 12-1315), ch. 224, p. 961, § 13, effective July 1.

**Editor's note:** (1) Subsection (5) provided for the repeal of this section, effective July 1, 2012. (See L. 2011, p. 1451.)

(2) Subsections (1)(e), IP(2)(b)(I), and (4) were amended in House Bill 12-1315. Those amendments were superseded by the repeal of the section, effective July 1, 2012.

### **PART 4**

#### **FOREST PRODUCTS**

**23-31-401. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Forest product" means any natural part of any plant including, but not limited to, firewood, logs, trees, evergreen boughs, and transplants in commercial quantities.

(2) "Person" means an individual, partnership, corporation, firm, or association.

(3) "Transplant" means any live plant that has been excavated and moved for the purpose of planting in a different location.

**Source: L. 2007:** Entire article amended with relocations, p. 537, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-401 as it existed prior to 2007.

**23-31-402. Owner's permission required - when.** It is unlawful for any person to harvest and remove any forest product on land of another without first securing written permission from the owner of the land or the owner of the growth thereon, or his or her authorized agent. Only one permit shall be required of persons working in a crew.



**Source: L. 2007:** Entire article amended with relocations, p. 537, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-402 as it existed prior to 2007.

**23-31-403. Proof of ownership required - when.** (1) It is unlawful for any person to transport or possess any forest product in the state of Colorado without proof of ownership. Said proof of ownership shall be signed by the person transferring possession of said forest products and shall contain the date of the transfer of possession, the name and address of the transferee, the location at which the forest products were obtained, and the quantity of forest product transferred. Such proof of ownership may consist of one or more of the following:

(a) A permit, contract, or other writing issued by the landowner or proper state or federal agencies;

(b) A bill of sale or sales receipt showing title thereto;

(c) A log or product load receipt or inventory;

(d) A ticket issued by the seller authorizing removal of forest products; or

(e) Any written statement by a person transporting forest products harvested or removed from property owned by such person.

(2) Any person who transports or possesses any forest product intended for resale shall, upon request of any sheriff, undersheriff, deputy sheriff, police officer, town marshal, Colorado state patrol officer, parks and recreation officer, Colorado wildlife officer, or an agent of the Colorado bureau of investigation, exhibit valid proof of ownership.

**Source: L. 2007:** Entire article amended with relocations, p. 537, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-403 as it existed prior to 2007.

**23-31-404. Violation - penalty - defense.** (1) Any person who violates any provision of this part 4 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine equal to twice the retail value of the forest products involved.

(2) Proof of ownership shall be an affirmative defense.

**Source: L. 2007:** Entire article amended with relocations, p. 538, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-30-404 as it existed prior to 2007.

## PART 5

### COOPERATION WITH THE UNITED STATES

**23-31-501. Acceptance of congressional grant of 1862.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all of the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of the congress of the United States entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts.", established under the provisions of an act of congress, approved July 2, 1862.

**Source: L. 2007:** Entire article amended with relocations, p. 538, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-101 as it existed prior to 2007.

## ANNOTATION

**Law reviews.** For note, “The Problem of the Local Improvement District in Colorado”, see 12 Rocky Mt. L. Rev. 45 (1939). For article,

“The ‘New’ Colorado State Land Board”, see 78 Den. U. L. Rev. 347 (2001).

**23-31-502. Board of governors of the Colorado state university system to control fund.** The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the Colorado state university and in accordance with the terms and provisions of said act of congress.

**Source: L. 2007:** Entire article amended with relocations, p. 538, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-102 as it existed prior to 2007.

**23-31-503. Acceptance of congressional act of 1883.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and the purposes of the grants made and prescribed by the act of congress of the United States entitled “An Act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts.”, approved July 2, 1862, as well as the amendments thereto, as made by the act of congress passed and adopted March 3, 1883, entitled “An Act to amend an act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts.”, and all acts amendatory or supplementary to said acts.

**Source: L. 2007:** Entire article amended with relocations, p. 538, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-103 as it existed prior to 2007.

**23-31-504. Control, investment, and expending of funds.** (1) The board of governors of the Colorado state university system has control of the funds derived from the sale of lands donated by the said act of congress of 1862, and shall invest the same in securities which yield a fair and reasonable rate of return, and shall disburse the income therefrom for the use and benefit of the Colorado state university as required in the said act of congress. Said funds derived from the sale of lands donated by said act of 1862, and from lease or rental of unsold lands of such land grant, and from coal, oil, and mineral royalties from said lands may be invested in bonds of the United States; in state, county, municipal, and school district bonds; in state, county, and municipal registered warrants; in registered warrants of school districts; and in state anticipation building levy warrants, or in any or all of these, in the discretion of the board of governors of the Colorado state university system.

(2) The warrants of the board of governors of the Colorado state university system to purchase such bonds, registered warrants, and anticipation warrants shall be approved and paid when accompanied by favorable opinion of the attorney general. All bonds, registered warrants, and anticipation warrants so purchased shall be registered in the name of the “treasurer of the state of Colorado for the account of the ‘land grant fund of the Colorado state university’” and deposited with the state treasurer.

(3) The general assembly of the state of Colorado engages that the principal of such fund shall forever remain unimpaired and the income thereof shall be applied without diminution to the uses and purposes prescribed in said act of congress; except that, as prescribed in said act of congress, a sum not exceeding ten percent of the principal of such fund may be expended by the board of governors of the Colorado state university system for the purchase or exchange of lands for sites or experimental stations, subject to the approval of the governor and the provisions of sections 24-75-301 to 24-75-303, C.R.S.



**Source: L. 2007:** Entire article amended with relocations, p. 539, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-104 as it existed prior to 2007.

**Cross references:** For experiment stations, see part 6 of this article.

**23-31-505. Other funds - investment.** The board of governors of the Colorado state university system has the right to invest in the same manner as provided in section 23-31-504 any other permanent funds, the principal of which is not subject to use, that may be held by or granted to the state for the use of the Colorado state university or other institutions under the control of the board of governors of the Colorado state university system.

**Source: L. 2007:** Entire article amended with relocations, p. 539, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-106 as it existed prior to 2007.

**23-31-506. Report on condition - appropriation.** The board of governors of the Colorado state university system, on or before the fifteenth day of December immediately preceding the convening of the general assembly, shall make a report to the governor and the joint budget committee showing the condition of said fund, the investment thereof, the security taken therefor, and the amount of income derived therefrom. The report shall be submitted by the governor to the general assembly. If the report shows any loss in such funds, the amount of the loss shall be included in the governor's budget in order that the general assembly may fulfill the contractual obligations assumed by the state in accepting the provisions and grants of said act of congress of 1862 through an appropriation to repay the loss and keep the principal of such fund unimpaired.

**Source: L. 2007:** Entire article amended with relocations, p. 539, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-107 as it existed prior to 2007.

**23-31-507. Management of funds.** The board of governors of the Colorado state university system is designated to receive, manage, and disburse all funds not permanent in character derivable and derived under the several acts of congress supplementary to the act of congress of 1862.

**Source: L. 2007:** Entire article amended with relocations, p. 540, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-108 as it existed prior to 2007.

**23-31-508. Purpose of sections.** It is the design of the general assembly in passing sections 23-31-503 to 23-31-508 to supplement and make more definite previous acts of acceptance of said several grants and the conditions thereof, and particularly to definitely provide for the management and investment of the permanent funds so derived, to the end that the engagements of the state with reference thereto may be kept.

**Source: L. 2007:** Entire article amended with relocations, p. 540, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-109 as it existed prior to 2007.

**23-31-509. Acceptance of congressional act of 1928.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled “An Act to provide for the further development of agricultural extension work at the agricultural colleges in the several states, receiving the benefit of the act entitled ‘An Act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts’, approved July 2, 1862, and all acts supplementary thereto, and the United States department of agriculture, approved May 22, 1928”. The action of the governor of the state in accepting in behalf of the state of Colorado the provisions of the said act of congress for the period from its approval to the adjournment of the present session of the general assembly as authorized by said act of congress is ratified.

**Source: L. 2007:** Entire article amended with relocations, p. 540, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-110 as it existed prior to 2007.

**23-31-510. Control of funds.** The board of governors of the Colorado state university system has the control of the funds appropriated by the said act of congress and shall disburse the same in accordance with the terms and provisions of the act of congress.

**Source: L. 2007:** Entire article amended with relocations, p. 540, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-111 as it existed prior to 2007.

**23-31-511. Congressional act of 1914 accepted.** Full and complete acceptance and assent is made and given by the state of Colorado to the provisions, terms, and conditions made and prescribed by the act of congress of the United States entitled “An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several states receiving the benefits of an act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture, known as the Smith-Lever Act, approved May 8, 1914”. The Colorado state university in the state of Colorado is designated as the beneficiary of said act under the direction of the board of governors of the Colorado state university system.

**Source: L. 2007:** Entire article amended with relocations, p. 540, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-112 as it existed prior to 2007.

**23-31-512. Board to receive and expend funds.** The board of governors of the Colorado state university system is designated as the officer of the state of Colorado duly authorized to receive and expend the funds available under said act of congress to the state of Colorado for the uses and purposes therein prescribed.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-32-113 as it existed prior to 2007.

**23-31-513. Acceptance of congressional act of 1935.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of



congress of the United States entitled "An Act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges", approved June 29, 1935. The action of the governor of the state in accepting in behalf of the state of Colorado the provisions of the said act of congress for the period from its approval to the adjournment of the thirty-first session of the general assembly as authorized by said act of congress is ratified.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-114 as it existed prior to 2007.

**23-31-514. Control of funds from 1935 act.** The board of governors of the Colorado state university system has the control of the funds appropriated by the said act of congress and shall disburse the same for the use and benefit of the Colorado state university for instruction, for research and investigations, and for cooperative agricultural extension work in accordance with the terms and provisions of said act of congress.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-32-115 as it existed prior to 2007.

## PART 6

### EXPERIMENT STATIONS

**23-31-601. Acceptance of congressional act of 1862.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all of the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of congress of the United States entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto".

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-101 as it existed prior to 2007.

**23-31-602. Control of fund.** The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the agricultural experiment station department of the Colorado state university in accordance with the terms and provisions of said act of congress.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-102 as it existed prior to 2007.

**23-31-603. Acceptance of congressional act of 1906.** Full and complete acceptance, ratification, and assent is made and given by the state of Colorado to all the provisions, terms, grants, and conditions and purposes of the grants made and prescribed by the act of

Congress of the United States entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulate the expenditure thereof", approved March 16, 1906.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-103 as it existed prior to 2007.

**23-31-604. Board to control fund.** The board of governors of the Colorado state university system has the control of the fund appropriated by the said act of congress and shall disburse the same for the use and benefit of the agricultural experiment station department of the Colorado state university in accordance with the terms and provisions of said act of congress.

**Source: L. 2007:** Entire article amended with relocations, p. 541, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-104 as it existed prior to 2007.

**23-31-605. Board to cooperate with counties.** The board of governors of the Colorado state university system is authorized to cooperate with the several counties of the state in research work and in investigations of matters pertaining to the agricultural and industrial development of the counties and state upon such terms and in such manner as may be mutually agreed upon by the respective boards of county commissioners and the board of governors of the Colorado state university system.

**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-105 as it existed prior to 2007.

**23-31-606. Employees and specialists.** The board of governors of the Colorado state university system is vested with the power to employ and to discharge, as in its opinion the interests of the service require, all employees and specialists engaged to carry out the provisions of this section and section 23-31-605.

**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-106 as it existed prior to 2007.

**23-31-607. Stations established.** For the furtherance and promotion of the agricultural interests of this state, agricultural experimental stations are established. The precise locations shall be determined as provided in section 23-31-608.

**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-107 as it existed prior to 2007.

**23-31-608. Board to secure lands.** The board of governors of the Colorado state university system is authorized to select the necessary lands, secure the same either by lease or purchase, make all necessary improvements in the way of buildings and fences, and take such steps as it deems necessary to successfully establish said stations.



**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-108 as it existed prior to 2007.

**23-31-609. Board to supervise.** The board of governors of the Colorado state university system has the control and supervision of said station. It shall appoint a superintendent and such other officers and employees as necessary to carry on the said station successfully. It shall have power to fix salaries and all compensation of employees and is empowered to fix such rules and regulations necessary for the successful attainment of the object for which said station is established and maintained. It shall also appoint three resident trustees who shall act without compensation; except that, when it becomes necessary, they may be allowed traveling expenses in attending to the discharge of their duties.

**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-109 as it existed prior to 2007.

**23-31-610. Objects of stations.** The object of the agricultural experimental stations is to determine the adaptability of crops of grain, grasses, root crops, and all other growths which may grow in this latitude and the most economical method of producing the best results in growing such crops with and without irrigation.

**Source: L. 2007:** Entire article amended with relocations, p. 542, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-110 as it existed prior to 2007.

**23-31-611. Proceeds from station.** The proceeds arising from the sale of products of agricultural experimental stations shall be applied in the liquidation of the running expenses. All moneys so accruing shall be credited as coming from the state and applied as part or whole payment of any amount which may be appropriated from the funds of the state for the maintenance of the stations.

**Source: L. 2007:** Entire article amended with relocations, p. 543, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-111 as it existed prior to 2007.

**23-31-612. Expenses - how paid.** To enable the board of governors of the Colorado state university system to carry out the provisions of sections 23-31-607 to 23-31-612, it is authorized to expend such amount as it may deem necessary in establishing agricultural experimental stations, out of any moneys which may accrue to the state by action of the congress of the United States for the purpose of establishing agricultural experimental stations in the various states and territories of the United States.

**Source: L. 2007:** Entire article amended with relocations, p. 543, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-33-112 as it existed prior to 2007.

## PART 7

### COLORADO COOPERATIVE EXTENSION SERVICE

**23-31-701. Short title.** This part 7 shall be known and may be cited as the "Colorado Cooperative Extension Service Act".

**Source: L. 2007:** Entire article amended with relocations, p. 543, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-101 as it existed prior to 2007.

**23-31-702. Acknowledgment of related federal laws.** (1) Section 23-31-511, accepting and assenting to the provisions, terms, and conditions of the act of congress known as the "Smith-Lever Act" (38 Stat. 372) providing for cooperative extension programs, is acknowledged.

(2) Subsequent congressional enactments, including the "National Agricultural Research, Extension, and Teaching Policy Act of 1977" (Title XIV, Public Law 95-113, September 29, 1977), the "International Food and Agricultural Development Act of 1975" (Title XII, Public Law 94-161, December 20, 1975), and the "Rural Development Act of 1972" (Title V, Public Law 92-419, October 3, 1972), are acknowledged as authorizing, supplementing, expanding, and redefining the federal role in cooperative extension programs, including those conducted in cooperation with the Colorado cooperative extension service.

(3) Nothing in this section shall be construed to oblige the state in any way to institute or maintain with state funds any program in contravention of the laws of Colorado or the interest of the general assembly in providing for the education needs of the people.

**Source: L. 2007:** Entire article amended with relocations, p. 543, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-102 as it existed prior to 2007.

**23-31-703. Responsibility and objectives.** (1) Primary responsibility, according to section 23-31-702, for statewide programs of educational noncredit, informal extension conducted through cooperative federal, state, and county relationships and as more particularly authorized in this part 7 shall continue to lie with the Colorado state university cooperative extension service, referred to in this part 7 as the "service".

(2) The objectives of the service's programs shall continue to be the dissemination of information to the people of this state in order to assist them in applying the results of scientific research and technological developments, as well as lessons from practical experience, to the solution of individual, family, and community problems, drawing on relevant knowledge from various fields, including but not limited to agriculture, natural resources, home economics, nutrition, health, citizenship, and community and economic development.

**Source: L. 2007:** Entire article amended with relocations, p. 543, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-103 as it existed prior to 2007.

**23-31-704. Organization - cooperative relationships.** (1) The service is an organizational unit of the Colorado state university, under the supervision and control of the university's administration and the board of governors of the Colorado state university system.

(2) Programs of the service shall reflect and respond to problems, needs, and opportunities in the state and its regions as formulated and articulated through the participation and involvement of the people, and said programs shall be conducted in accordance with program plans pursuant to agreements with federal and state agencies and with local governments and shall be consistent with authorizations of the congress, the general assembly, and local governments.

(3) In support of program objectives, the service is authorized, pursuant to the policies of the university and the service's governing board, to enter into contracts and agreements



with the United States department of agriculture, other federal departments and agencies, state departments, agencies, and institutions, county and other local governments, and private organizations and associations to further extension programs and to provide for funding and administration of said programs.

(4) The service is authorized to establish a state advisory committee, which shall consist of no more than eighteen members who shall equitably represent all regions of the state, to assist in the planning, implementation, and evaluation of the extension programs statewide; is authorized to cooperate with boards of county commissioners in the creation of county or area advisory committees to assist local extension personnel in planning, developing, implementing, and evaluating programs and performance; may establish administrative standards, operating procedures, and methods for utilizing such advisory committees; and may make the utilization of said standards, operating procedures, and methods for utilizing such advisory committees a basis for program cooperation and coordination.

**Source: L. 2007:** Entire article amended with relocations, p. 544, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-104 as it existed prior to 2007.

**23-31-705. Authority to accomplish purposes of part.** (1) The service is authorized, pursuant to applicable university, state, and federal policies and procedures, to spend appropriated funds, to collect and expend reasonable and proper service fees, to employ personnel, purchase materials and supplies, and to take other necessary action to facilitate the accomplishment of the purposes of this part 7, including but not limited to the following:

(a) Training of group leaders and directing of group educational activities;

(b) Conduct of workshops, institutes, conferences, and noncredit short courses at Colorado state university or at convenient locations in the state;

(c) Use of demonstrations and other appropriate educational methods and dissemination of information by appropriate means, including press, radio, television, and other forms of communication;

(d) Cooperation with federal, state, and local agencies, other universities and colleges, private organizations, and institutions to further program objectives; and

(e) Development of interstate and multicounty administrative or program arrangements, memoranda of understanding, and agreements to achieve state extension objectives.

**Source: L. 2007:** Entire article amended with relocations, p. 544, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-105 as it existed prior to 2007.

**23-31-706. Reporting and accountability.** (1) In addition to such reports as may be required under federal laws and agreements, the service shall:

(a) Provide annual reports to the governor reviewing activities and goal accomplishments, assessing the value and significance of extension program activities, and indicating problems, needs, and opportunities, especially such as might require the attention of the general assembly and the governor. Six copies of each report shall be filed with the legislative council.

(b) Prepare such other information as may be requested by the general assembly or the governor in areas of the service's concern and responsibility.

**Source: L. 2007:** Entire article amended with relocations, p. 545, § 2, effective August 3.

**Editor's note:** This section is similar to former § 23-34-106 as it existed prior to 2007.

## PART 8

## COLORADO WATER INSTITUTE

**23-31-801. Colorado water institute - creation.** (1) There is hereby created the Colorado water institute, referred to in this part 8 as the "institute", for the following purposes:

(a) Developing, implementing, and coordinating water and water-related research programs in collaboration with other state institutions of higher education and transferring the results of research and new technologies to potential users;

(b) Creating and operating a water research information and education center as a statewide clearinghouse and archive for water resources, water quality, and water-related policy issues, including the training of future generations of water scientists, managers, planners, and educators; and

(c) Conducting scientific research and policy analysis in areas including, but not limited to, water development and storage and surface water and groundwater hydrology, water resources management, water quality and aquatic habitat management and protection, water history and paleohydrology, drought planning and mitigation, and climate change and adaptation.

(2) The institute shall be a unit of the Colorado state university under the supervision and control of the university's administration and the board of governors of the Colorado state university system.

(3) The principal administrative officer of the institute shall be a director, who shall be appointed by the president of the Colorado state university with the approval of the board of governors of the Colorado state university system and who shall be under the direct supervision of the president of Colorado state university or a vice-president thereof designated by the president. To meet the purposes of the institute, the director, with the advice of the advisory committee established pursuant to section 23-31-802, shall develop appropriate policies and procedures for identification of priority research problems; for collaborating with water managers and user associations, drought and climate change planning organizations, other universities, federal, state, and local government agencies, and the general assembly in the formulation of its research program; for selection of projects to be funded; and for the dissemination of information and transfer of technology that is produced by the research.

(4) It is the duty of the institute to:

(a) Consult with state and local government agencies, water managers and user associations, drought and climate change planning organizations, water quality planning organizations, the general assembly, and other potential users of research in identifying and prioritizing the state's water scientific and policy-related research needs;

(b) Negotiate and administer contracts with other state institutions of higher education for the conduct of research projects;

(c) Disseminate new information and facilitate transfer and application of new technologies as they are developed;

(d) Provide for liaison between Colorado and the federal research funding agencies as an advocate for Colorado's water research needs;

(e) Facilitate and stimulate scientific research and policy analysis that:

(I) Deals with policy issues facing the general assembly;

(II) Supports state water, public health, and water quality protection agencies' missions with water research on water-related problems encountered and expected, including but not limited to the effects of climate change on water quality, water availability, run-off timing, drought planning, and future compact compliance;

(III) Provides water planning and management organizations with tools to increase efficiency and effectiveness of water planning and management;

(IV) Engages and trains future generations of the state's water professionals and educators; and



(V) Examines the interconnections between climate change, water supply, and water quality and provides tools needed by water managers and policymakers for adapting to global climate change;

(f) Establish and maintain a clearinghouse and archive of water research, water quality, and climate projection data.

(5) The institute is authorized to employ such professional, clerical, and other personnel needed to carry out the provisions of this part 8.

(6) The institute is authorized to expend state funds appropriated by the general assembly for cost-sharing on projects funded with federal or private moneys.

(7) State funds granted, appropriated, or otherwise made available for water research conducted at the state's institutions of higher education may pass through the administrative control of the institute if the grant, appropriation, or other funding document so specifies. If particular funds are so restricted, the institute may serve as an administrative entity of such funds for state agencies that seek to utilize Colorado universities or colleges for water research. As such, the institute shall have the power to accept grants, donations, appropriations, and other funding from any entity. The institute may provide oversight for such funding by ensuring research projects commence and are completed within the scope of agreements, invoices, contracts, purchase orders, intergovernmental agreements, or other fiscal devices used to fund research. The institute is authorized to assess a fee to implement its administrative authority. Such fee may not exceed twenty percent of the total cost of the project being administered by the institute. The advisory committee created in section 23-31-802 shall annually review and establish the administration fee.

**Source: L. 2007:** Entire article amended with relocations, p. 545, § 2, effective August 3. **L. 2008:** Entire section amended, p. 140, § 1, effective March 20.

**Editor's note:** This section is similar to former § 23-35-101 as it existed prior to 2007.

**23-31-802. Advisory committee on water research policy.** (1) There is hereby created the advisory committee on water research policy, which shall consist of at least eleven members. Eight of the members shall be appointed by the director of the institute. The remaining members shall be the executive director of the department of public health and environment, the executive director of the department of natural resources, and the commissioner of agriculture, or their designees.

(2) Appointed members of the advisory committee shall serve terms of four years. Members shall serve without compensation and are not entitled to reimbursement of expenses incurred in the performance of their duties.

(3) The advisory committee shall recommend policy guidelines for implementing the functions of the institute; shall confer with state governmental agencies, nongovernmental agencies, and state institutions of higher education to set Colorado's water research priorities; and shall evaluate the programs of the institute. The advisory committee shall also advise and counsel the director of the institute and shall make recommendations to assist the director in carrying out the purposes of this part 8.

**Source: L. 2007:** Entire article amended with relocations, p. 546, § 2, effective August 3. **L. 2008:** Entire section amended, p. 142, § 2, effective March 20.

**Editor's note:** This section is similar to former § 23-35-102 as it existed prior to 2007.

**23-31-803. Water research fund.** (1) There is hereby established in the state treasury the water research fund, referred to in this part 8 as the "fund". The fund shall consist of fees received by the institute pursuant to section 23-31-801 (7), transfers made to the fund pursuant to section 39-29-109.3 (2) (j), C.R.S., and gifts, grants, and donations accepted by the institute. The moneys in the fund are hereby continuously appropriated to the institute, and the institute may expend moneys from the fund for any purpose consistent with this part 8. Any interest derived from the deposit and investment of moneys in the fund shall be

credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) (Deleted by amendment, L. 2008, p. 143, § 3, effective March 20, 2008.)

**Source: L. 2007:** Entire article amended with relocations, p. 547, § 2, effective August 3. **L. 2008:** Entire section amended, p. 143, § 3, effective March 20; (1) amended, p. 978, § 4, effective May 21. **L. 2009:** (1) amended, (SB 09-292), ch. 369, p. 1966, § 73, effective August 5.

**Editor’s note:** This section is similar to former § 23-35-102.3 as it existed prior to 2007.

**23-31-804. Repeal of part.** This part 8 is repealed, effective July 1, 2017.

**Source: L. 2007:** Entire article amended with relocations, p. 547, § 2, effective August 3.

**Editor’s note:** This section is similar to former § 23-35-103 as it existed prior to 2007.

ARTICLE 31.3

Colorado State University - Global Campus

23-31.3-101.	University established - role and mission.	23-31.3-104.	President - duties.
23-31.3-102.	Board of governors of the Colorado state university system to supervise.	23-31.3-105.	Board of governors - personnel power.
23-31.3-103.	Academic policy.	23-31.3-106.	President may be an instructor.
		23-31.3-107.	Power to acquire land.

**23-31.3-101. University established - role and mission.** There is hereby established an on-line university to be known as Colorado state university - global campus, referred to in this article as “CSU global campus”. CSU global campus is a baccalaureate and graduate on-line university with the mission in Colorado of offering upper division baccalaureate degree completion programs for nontraditional students in partnership with the Colorado community college system and selected master-level graduate programs. CSU global campus shall comply with all applicable statutes and rules.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 332, § 1, effective August 8.

**23-31.3-102. Board of governors of the Colorado state university system to supervise.** The board of governors of the Colorado state university system has the general supervision of CSU global campus and the control and direction of the funds and appropriations made thereto. The board has the power to receive, demand, and hold for the uses and purposes of CSU global campus all money, lands, and other property that may be donated, devised, or conveyed thereto and to utilize the same in such manner as shall best serve the objects and interests of CSU global campus.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 332, § 1, effective August 8.

**23-31.3-103. Academic policy.** The president of CSU global campus, referred to in this article as the “president”, in consultation with the governing council and the faculty, has the responsibility for making academic policy and governing the academic affairs of the institution.



**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

**23-31.3-104. President - duties.** The president is chief executive officer of CSU global campus, and it is the duty of the president to see that the rules of the board of governors of the Colorado state university system are observed and executed.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

**23-31.3-105. Board of governors - personnel power.** The board of governors of the Colorado state university system has authority over all personnel matters relating to the system, including CSU global campus. In accordance with section 23-5-117, the board may delegate all or part of its power over personnel matters. If such personnel powers are delegated to the president, then all employees of CSU global campus are under the direction and control of the president and shall be removable at the president’s discretion. The president may fill vacancies of all employee positions as deemed necessary, subject to his or her personnel power.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

**23-31.3-106. President may be an instructor.** The president may perform the duties of an instructor, as the board of governors of the Colorado state university system shall determine.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

**23-31.3-107. Power to acquire land.** The board of governors of the Colorado state university system has the power to take and hold, by gift, devise, or purchase, so much land as may become necessary for the location and construction of buildings, structures, and other facilities as may be required for the uses and purposes of Colorado.

**Source: L. 2012:** Entire article added, (HB 12-1220), ch. 100, p. 333, § 1, effective August 8.

ARTICLE 31.5

Colorado State University - Pueblo

**Editor’s note:** This article was added with relocations in 2007 containing relocated provisions of some sections formerly located in article 55 of this title. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

23-31.5-101.	University established - role and mission.	23-31.5-107.	cers.
23-31.5-102.	Board of governors of the Colorado state university system to supervise.	23-31.5-108.	President may be professor.
23-31.5-103.	Who shall constitute faculty.	23-31.5-109.	Power to acquire land.
23-31.5-104.	Duty of the faculty.	23-31.5-110.	Effect of name change.
23-31.5-105.	President - duties.	23-31.5-111.	Additional powers of board.
23-31.5-106.	President may remove offi-		Board of governors of the Colorado state university system - powers relating to real property.

**23-31.5-101. University established - role and mission.** There is hereby established a university at Pueblo, to be known as Colorado state university - Pueblo, which shall be a regional, comprehensive university, with moderately selective admissions standards. The university shall offer a broad array of baccalaureate programs with a strong professional focus and a firm grounding in the liberal arts and sciences. The university shall also offer a limited number of graduate programs.

**Source: L. 2007:** Entire article added with relocations, p. 547, § 3, effective August 3.  
**L. 2011:** Entire section amended, (SB 11-204), ch. 308, p. 1509, § 1, effective August 10.

**Editor's note:** This section is similar to former § 23-55-101 as it existed prior to 2007.

#### ANNOTATION

**Applied** in *Jones v. Hopper*, 410 F.2d 1323 (10th Cir. 1969), cert. denied, 397 U.S. 991, 90 S. Ct. 1111, 25 L. Ed.2d 399 (1970) (decided prior to 2007 amendment).

**23-31.5-102. Board of governors of the Colorado state university system to supervise.** The board of governors of the Colorado state university system has the general supervision of the Colorado state university - Pueblo and the control and direction of the funds and appropriations made thereto and has the power to receive, demand, and hold for the uses and purposes of said university all money, lands, and other property that may be donated, devised, or conveyed thereto and to apply the same in such manner as shall best serve the objects and interests of the said university.

**Source: L. 2007:** Entire article added with relocations, p. 547, § 3, effective August 3.

**Editor's note:** This section is similar to former § 23-55-103 as it existed prior to 2007.

**23-31.5-103. Who shall constitute faculty.** The president and the faculty shall constitute the faculty of the Colorado state university - Pueblo.

**Source: L. 2007:** Entire article added with relocations, p. 547, § 3, effective August 3.

**23-31.5-104. Duty of the faculty.** The faculty shall have the responsibility for making academic policy and governing the academic affairs of the institution.

**Source: L. 2007:** Entire article added with relocations, p. 547, § 3, effective August 3.

**23-31.5-105. President - duties.** The president shall be chief executive officer of the Colorado state university - Pueblo, and it is his or her duty to see that the rules and regulations of the board of governors of the Colorado state university system and the faculty are observed and executed.

**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.

**23-31.5-106. President may remove officers.** The subordinate officers and employees, but not members of the faculty or those employees for which the board has reserved personnel powers, shall be under the direction of the president and shall be removable at his or her discretion. The president may fill vacancies of such subordinate officers and employees subject to his or her personnel power.

**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.

**23-31.5-107. President may be professor.** The president may or may not perform the duties of a professor, as the board of governors of the Colorado state university system shall determine.



**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.

**23-31.5-108. Power to acquire land.** The board of governors of the Colorado state university system has the power to take and hold, by gift, devise, or purchase or through exercise of the power of eminent domain pursuant to law, so much additional land as may become necessary for the location and construction of such additional buildings, structures, and other facilities as may be required for the uses and purposes of Colorado state university - Pueblo.

**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.

**Editor's note:** This section is similar to former § 23-55-104 as it existed prior to 2007.

**23-31.5-109. Effect of name change.** The legal effect of any statute heretofore designating the Colorado state university - Pueblo by any other name, or property rights heretofore acquired and obligations heretofore incurred under any other name, shall not be impaired.

**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.

**Editor's note:** This section is similar to former § 23-55-105 as it existed prior to 2007.

**23-31.5-110. Additional powers of board.** (1) The board of governors of the Colorado state university system has the power to lease portions of the grounds of the Colorado state university - Pueblo to private persons and corporations for the construction of dormitory, living, dining, or cottage buildings and to rent, lease, maintain, operate, and purchase such buildings at such university, all in the manner provided by and subject to the limitations contained in sections 23-56-105 to 23-56-111; except that none of such grounds or improvements shall be used in any manner that discriminates against anyone because of race, creed, color, religion, national origin, ancestry, sex, or sexual orientation.

(2) In exercising the powers conferred by subsection (1) of this section, the board of governors of the Colorado state university system is authorized to enter into agreements which establish fixed building rental rates for the full term of any building lease, to let individual rooms and quarters within leased buildings at such rental rates as are approved by the board and prescribed in the lease, and to enter into agreements not to alter such rates during the term of any lease agreement without the prior consent of the building lessor or his or her assigns.

(3) In addition to those powers conferred elsewhere in this article, the board of governors of the Colorado state university system has the power to:

(a) Appoint a president of the Colorado state university - Pueblo who shall hold the office until removed by the board or until he or she resigns;

(b) Appoint such other executive officers of the university as may be required;

(c) Appoint such faculty and employees as the necessities of the university demand;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff.

**Source: L. 2007:** Entire article added with relocations, p. 548, § 3, effective August 3.  
**L. 2008:** (1) amended, p. 1602, § 27, effective May 29.

**Editor's note:** This section is similar to former § 23-55-106 as it existed prior to 2007.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 341, Session Laws of Colorado 2008.

**23-31.5-111. Board of governors of the Colorado state university system - powers relating to real property.** The board of governors of the Colorado state university system

shall have the powers specified in section 23-30-102 regarding the sale, lease, or exchange of real property, or any interest therein, the ownership of which is vested in the board of governors of the Colorado state university system or the Colorado state university - Pueblo.

**Source: L. 2007:** Entire article added with relocations, p. 549, § 3, effective August 3.

**Editor's note:** This section is similar to former § 23-55-107 as it existed prior to 2007.

## ARTICLE 32

### Cooperation with United States

#### 23-32-101 to 23-32-115. (Repealed)

**Source: L. 2007:** Entire article repealed, p. 550, §§ 7, 8, effective August 3.

**Editor's note:** This article was numbered as article 12 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 5 of article 31 of this title. For the location of specific provisions, see the editor's notes following each section in said part 5 and the comparative tables located in the back of the index.

## ARTICLE 33

### Experiment Stations

#### 23-33-101 to 23-33-123. (Repealed)

**Source: L. 2007:** Entire article repealed, p. 550, §§ 7, 8, effective August 3.

**Editor's note:** This article was numbered as article 13 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 6 of article 31 of this title. For the location of specific provisions, see the editor's notes following each section in said part 6 and the comparative tables located in the back of the index.

## ARTICLE 34

### Colorado Cooperative Extension Service

#### 23-34-101 to 23-34-106. (Repealed)

**Source: L. 2007:** Entire article repealed, p. 550, § 7, effective August 3.

**Editor's note:** This article was added in 1979. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 7 of article 31 of this title. For the location of specific provisions, see the editor's notes following each section in said part 7 and the comparative tables located in the back of the index.



ARTICLE 35

Colorado Water Resources  
Research Institute

23-35-101 to 23-35-103. (Repealed)

**Source:** L. 2007: Entire article repealed, p. 550, § 7, effective August 3.

**Editor’s note:** This article was added in 1981. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 8 of article 31 of this title. For the location of specific provisions, see the editor’s notes following each section in said part 8 and the comparative tables located in the back of the index.

ARTICLE 40

University of Northern Colorado

23-40-101.	University established - role and mission.	23-40-104.	Board of trustees.
23-40-102.	Name of institution changed.	23-40-104.5.	Tuition - repeal.
23-40-103.	Funds for maintenance.	23-40-105.	Granting of degrees and diplomas.
23-40-103.5.	Board of trustees for the university of northern Colorado fund - creation - control - use.	23-40-106.	Education innovation institute established - purposes - appropriations - report.

**23-40-101. University established - role and mission.** (1) There is hereby established a university at Greeley, to be known as the university of northern Colorado. The university shall be a comprehensive baccalaureate and specialized graduate research university with selective admission standards.

(2) The university of northern Colorado shall be the primary institution for undergraduate and graduate degree programs for educational personnel preparation in the state of Colorado. The university shall offer master’s and doctoral programs primarily in the field of education. The university has the responsibility to offer on a statewide basis, utilizing where possible and appropriate the faculty and facilities of other educational institutions, those graduate-level programs needed by professional educators and education administrators. The Colorado commission on higher education shall include in its funding recommendations an appropriate level of general fund support for those programs.

(3) As part of its mission as a graduate research university specializing in programs for educational personnel, the university of northern Colorado shall include the education innovation institute created in section 23-40-106 for the purposes described in section 23-40-106 (2).

**Source:** L. 1889: p. 409, § 1. R.S. 08: § 6125. C.L. § 8153. CSA: C. 155, § 1. CRS 53: § 124-6-1. C.R.S. 1963: § 124-6-1. L. 85: Entire section R&RE, p. 763, § 7, effective July 1. L. 2003: Entire section amended, p. 2595, § 3, effective July 1. L. 2009: Entire section amended, (SB 09-032), ch. 13, p. 80, § 2, effective August 5.

**Cross references:** For the legislative declaration contained in the 2009 act amending this section, see section 1 of chapter 13, Session Laws of Colorado 2009.

## ANNOTATION

**The necessity for instruction in the science and art of teaching was recognized by the general assembly, and the establishment of the**

university of northern Colorado was the result. Nash v. Sch. Bd. No. 3, 49 Colo. 555, 113 P. 1003 (1911).

**23-40-102. Name of institution changed.** (1) The state school at Greeley, referred to under the name and title of the "Colorado state college of education at Greeley" by article 6 of chapter 124, CRS 53, and amendments thereto, and under the name and title of the "Colorado state college" by this article, after May 1, 1970, shall be designated under the name and title of the "university of northern Colorado"; but the legal effect of any statute designating such institution by any other name or property rights acquired and obligations incurred under any other name prior to May 1, 1970, shall not be impaired hereby.

(2) The intent of the general assembly in making the name change provided for in subsection (1) of this section is to recognize and affirm the university status of what was formerly known as Colorado state college and to be known in the future as the university of northern Colorado without changing the present function of such institution as an institution of higher education primarily concerned with the preparation of teachers at all educational levels.

**Source:** L. 57: p. 713, § 1. CRS 53: § 124-6-16. C.R.S. 1963: § 124-6-8. L. 70: p. 350, § 1.

**23-40-103. Funds for maintenance.** The funds and revenues for the establishment and maintenance of the university of northern Colorado, for the payment of its officers, teachers, and employees, and for all purposes incident thereto or necessary for the proper founding, continuance, and successful conduct thereof shall be appropriated and apportioned in such manner as the general assembly provides by law.

**Source:** L. 1889: p. 413, § 15. R.S. 08: § 6126. C.L. § 8155. CSA: C. 155, § 4. CRS 53: § 124-6-2. C.R.S. 1963: § 124-6-2.

**23-40-103.5. Board of trustees for the university of northern Colorado fund - creation - control - use.** (1) There is hereby created in the state treasury the board of trustees for the university of northern Colorado fund which shall be under the control of and administered by the board of trustees for the university of northern Colorado in accordance with the provisions of this article. Except as otherwise allowed by section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees for the university of northern Colorado or by the university of northern Colorado, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund. The moneys in the fund are hereby continuously appropriated to the board of trustees for the university of northern Colorado and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the board of trustees for the university of northern Colorado fund shall be used by the board of trustees for the university of northern Colorado for the payment of salaries and operating expenses of the board of trustees and of the university of northern Colorado and for the payment of any other expenses incurred by the board of trustees in carrying out its statutory powers and duties.

(3) Moneys in the board of trustees for the university of northern Colorado fund which are not needed for immediate use by the board of trustees for the university of northern Colorado may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.



**Source: L. 97:** Entire section added, p. 316, § 1, effective July 1. **L. 98:** (1) amended, p. 369, § 4, effective September 1.

**23-40-104. Board of trustees.** (1) (a) There is hereby established the board of trustees for the university of northern Colorado, which shall consist of nine members and shall be the governing authority for the university of northern Colorado. The board created by this subsection (1) shall be and is hereby declared to be a body corporate and, as such and by the names designated in this section, may hold property for the use of the university which it governs, be a party to all suits and contracts, and do all things lawfully appertaining to such university in like manner as municipal corporations of this state. The trustees of the board created by this section and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and government of the university within their jurisdiction, and may conduct the business of said university in a manner not repugnant to the constitution and laws of this state. Staff support for said board of trustees shall be provided by the staff of the university of northern Colorado.

(b) (I) The governor shall appoint, with the consent of the senate, seven members of the board of trustees created by this subsection (1). The initial members of the board shall take office on July 1, 1973. The terms of the seven members of the board of trustees appointed prior to June 15, 1987, shall be six years; except that appointments of members to take office on July 1, 1973, shall be made so that two members of the board have terms expiring on June 30, 1975, two members of the board have terms expiring on June 30, 1977, and three members of the board have terms expiring on June 30, 1979. Persons who are appointed members and who are holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter the terms of the seven members of the board of trustees appointed by the governor shall be four years; except that a member of the board who is appointed by the governor shall continue to serve until a successor is appointed and confirmed by the senate.

(II) Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term.

(III) Notwithstanding any other provision of this section, the appointments to succeed members whose terms expire on December 31, 2011, shall be as follows:

- (A) Two members who shall serve four-year terms;
- (B) Two members who shall serve three-year terms; and
- (C) One member who shall serve a one-year term.

(IV) Notwithstanding any other provision of this section, the appointments to succeed members whose terms expire on or after December 31, 2013, shall be for four-year terms.

(V) Of the seven members appointed by the governor, no more than four members shall be from the same political party.

(VI) The eighth office shall be filled by an elected member of the student body who is a full-time junior or senior student at the university of northern Colorado. The term of said elected office shall be one year, beginning July 1. The elected student office shall be advisory, without the right to vote. The elected student member of the board shall have resided in the state of Colorado not less than three years prior to his or her election. For purposes of this paragraph (b), "full-time student" means the equivalent of the definition of "full-time equivalent student" used by the joint budget committee of the general assembly. The ninth office shall be filled by an elected member of the faculty at large elected by other members of the faculty at large for a term of one year, beginning July 1, and such office shall be advisory, without the right to vote.

(VII) All vacancies in the office of any member appointed by the governor shall be filled by appointment by the governor for the unexpired term, and any vacancy in either of the elected offices on the board shall be filled by reelection for the unexpired term.

(VIII) Each trustee shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of his or her office, which oath shall be placed and kept on file in the office of the secretary of state.

(c) Repealed.

(2) Repealed.

**Source:** **L. 75:** Entire section added, p. 211, § 32, effective July 16; entire section added, p. 738, § 3, effective January 1, 1976. **L. 81:** (1) amended, p. 1121, § 1, effective June 4. **L. 83:** (1)(c) repealed, p. 807, § 1, effective March 22. **L. 87:** (1)(b) amended, p. 908, § 16, effective June 15. **L. 88:** (2) amended, p. 858, § 8, effective July 1. **L. 2003:** (2) repealed, p. 793, § 19, effective July 1. **L. 2006:** (1)(b) amended, p. 1230, § 2, effective May 26. **L. 2011:** (1)(b) amended, (HB 11-1060), ch. 31, p. 87, § 1, effective August 10.

**Editor's note:** Amendments to this section by House Bill 75-1232 and Senate Bill 75-453 were harmonized.

#### ANNOTATION

The general assembly did not intend to waive sovereign immunity for the university of northern Colorado or to subject it to exposure under 42 U.S.C. § 1983 when it chose a corporate form for its governance. *Graham v. State of Colo.*, 956 P.2d 556 (Colo. 1998).

Any judgment against the university of northern Colorado under 42 U.S.C. § 1983 would be paid by the state and not the university as an arm of the state. The university is not a "person" for §1983 purposes. *Graham v. State of Colo.*, 956 P.2d 556 (Colo. 1998).

**23-40-104.5. Tuition - repeal.** (1) For fiscal years 2011-12 through 2015-16, the board of trustees for the university of northern Colorado, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend the university of northern Colorado.

(2) This section is repealed, effective July 1, 2016.

**Source:** **L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1843, § 10, effective June 9.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-40-105. Granting of degrees and diplomas.** The university of northern Colorado is authorized to grant degrees and diplomas to the students who have completed the full course of instruction in said university and who have been recommended for such diplomas by the faculty of said university. Any such diploma, when signed by the president of said university, the commissioner of education, and the president and secretary of the board of trustees for the university of northern Colorado, shall be evidence that the receiver thereof is a graduate of said university and is entitled to all the honors and privileges of a graduate.

**Source:** **L. 75:** Entire section added, p. 212, § 32, effective July 16.

**23-40-106. Education innovation institute established - purposes - appropriations - report.** (1) There is hereby established within the university of northern Colorado the education innovation institute, referred to in this section as the "institute". The university shall administer the institute.

(2) The purposes of the institute shall include, but not be limited to:

(a) Collaborating with institutions to leverage research, funding, expertise, and other resources;



- (b) Discovering and studying innovations in teaching and learning;
- (c) Creating, piloting, and advocating for innovations in educational delivery methods;
- (d) Producing data and analyses concerning issues including, but not limited to, the following:
- (I) Existing or nascent problems in education;
- (II) Models of innovative educational solutions; and
- (III) Financing and governance models for educational settings;
- (e) Providing public policy makers with data and analyses concerning:
- (I) Educational program effectiveness; and
- (II) Innovative options for public and private educational settings;
- (f) Identifying innovative uses of existing school facilities in the state for the purpose of collaboration between elementary, secondary, and higher education institutions; and
- (g) Identifying key issues and setting research priorities in consultation with education experts, business and community leaders, and public officials.
- (3) (a) The general assembly may appropriate moneys to the board of trustees of the university of northern Colorado for the administration of the institute.
- (b) The board of trustees of the university may solicit and accept gifts, grants, and donations from public and private sources to fund the institute.
- (4) On or before January 10, 2011, and on or before January 10 each year thereafter, the institute shall prepare and submit a report to the education committees of the house of representatives and the senate, or any successor committees, concerning the activities of the institute in the previous calendar year. The report shall include, at a minimum, information concerning the efforts of the institute to fulfill its purposes as described in subsection (2) of this section.

**Source: L. 2009:** Entire section added, (SB 09-032), ch. 13, p. 81, § 3, effective August 5.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 13, Session Laws of Colorado 2009.

ARTICLE 41

School of Mines

PART 1		23-41-112.	Transfer of property.
COLORADO SCHOOL OF MINES		23-41-113.	Fund used exclusively for school.
23-41-101.	Location - powers.	23-41-114.	Colorado energy research institute - creation.
23-41-102.	Board of trustees - term.	23-41-115.	Advisory council on energy-related minerals research. (Repealed)
23-41-103.	Oath of trustees.		
23-41-103.5.	The Colorado school of mines fund - creation - control - use.	23-41-115.5.	Legislative declaration. (Repealed)
23-41-104.	Control - management.	23-41-116.	Rents or charges for buildings and facilities for research.
23-41-104.5.	Hazardous waste remediation - report. (Repealed)		
23-41-104.6.	Performance contract - authorization - operations.	23-41-117.	Research building revolving fund - appropriation of fund.
23-41-104.7.	Funding.	23-41-118.	Anticipation warrants.
23-41-105.	School established - role and mission.	23-41-119.	Purchase of anticipation warrants.
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PART 2

GEOLOGICAL SURVEY

			qualifications.
		23-41-205.	Objectives of survey - duties of state geologist.
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23-41-203.	Geological survey created - purpose - avalanche information center created.	23-41-209.	Repeal of part or section - notice to the revisor of statutes.
23-41-204.	State geologist - appointment -	23-41-210.	Annual report to general assembly - repeal.

PART 1

COLORADO SCHOOL OF MINES

**23-41-101. Location - powers.** The state school of mines, located at Golden in the county of Jefferson, is declared to be a body corporate under the name of “Colorado school of mines”; and, by that name, it may sue and be sued; may take and hold real and personal property by gift, bequest, devise, or purchase for the state; and may sell and dispose of the same when authorized so to do by law.

**Source:** G.L. § 2427. G.S. § 3098. R.S. 08: § 6015. C.L. § 8034. CSA: C. 145, § 1. L. 37: p. 1107, § 1. CRS 53: § 124-9-1. C.R.S. 1963: § 124-9-1.

**23-41-102. Board of trustees - term.** (1) (a) There shall be a board of trustees of the Colorado school of mines to be composed of nine persons. The five members serving on the board on July 1, 1973, shall continue to serve the terms for which they were appointed. On or before July 1, 1973, the governor shall appoint two additional members of the board, of which one shall be appointed for a term to expire on March 1, 1975, and one shall be appointed for a term to expire on March 1, 1977. Prior to June 15, 1987, the governor shall fill the vacancies in appointed offices occurring every two years by appointments of members of the board for terms of six years each, in accordance with this arrangement. Persons who are appointed members and who are holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S. Thereafter the terms of such appointed members shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member’s appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the seven members appointed by the governor, no more than four members shall be from the same political party. The two remaining member positions shall be filled by:

(I) An elected member of the student body who is a full-time junior or senior student at the Colorado school of mines, and the term of said elected office shall be one year, beginning July 1. The elected student member shall be advisory, without the right to vote. For the purposes of this subsection (I), “full-time student” means the equivalent of the definition of “full-time equivalent student” used by the joint budget committee of the general assembly.

(II) A full-time member of the academic faculty of the Colorado school of mines elected by a majority of at least sixty-seven percent of the academic faculty. The initially elected faculty board member shall be elected at a special election to be held during the spring semester of 2008. The term of office for the initially elected faculty member shall end December 31, 2010. Subsequently elected faculty members shall serve two-year terms



commencing January 1 of each odd-numbered year thereafter. The elected faculty member shall be advisory, without the right to vote.

(b) For the purpose of further staggering the terms of office held by members of the Colorado school of mines board of trustees, the terms of two of the board members holding office on July 1, 1994, whose terms expire in 1995, and one of the members holding office on July 1, 1994, whose term expires in 1997, are extended for one year. The governor shall select those members whose terms are extended.

(2) Said trustees shall hold their offices for the terms for which they have been appointed and until their successors are appointed and qualified. Any four of the members of said board appointed by the governor shall constitute a quorum for the transaction of business. The said board has such powers and shall perform such duties as specified in the laws creating the institution and providing for its maintenance.

(3) In appointing persons to the Colorado school of mines board of trustees on or after July 1, 2010, the governor shall ensure that no more than two of the members serving on the board of trustees at any one time reside outside the state of Colorado. In addition, the governor shall base his or her appointments on considerations of:

(a) An appointee's professional background related to the industries and fields for which the Colorado school of mines prepares students for employment and in which the faculty of the institution conduct research;

(b) Other areas of professional expertise that an appointee may bring to his or her service on the board of trustees; and

(c) The appointee's commitment to using his or her personal time and efforts to serve and support the Colorado school of mines.

**Source:** G.L. § 2428. G.S. § 3099. R.S. 08: § 6016. C.L. § 8035. L. 35: p. 1024, § 1. CSA: C. 145, § 2. CRS 53: § 124-9-2. C.R.S. 1963: § 124-9-2. L. 73: p. 1327, § 1. L. 75: Entire section amended, p. 739, § 4, effective January 1, 1976. L. 87: (1) amended, p. 909, § 17, effective June 15. L. 94: (1) amended, p. 488, § 1, effective March 31. L. 2006: (1)(a) amended, p. 1231, § 3, effective May 26. L. 2008: (1)(a) amended, p. 621, § 2, effective April 24. L. 2010: (3) added, (SB 10-003), ch. 391, p. 1859, § 39, effective June 9.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1)(a), see section 1 of chapter 176, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act adding subsection (3), see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-41-103. Oath of trustees.** Every trustee appointed, before entering upon the duties of his office, shall take an oath to support the constitution of the United States and the constitution of this state and to faithfully perform the duties of his office to the best of his ability and understanding.

**Source:** G.L. § 2430. G.S. § 3100. R.S. 08: § 6017. C.L. § 8036. CSA: C. 145, § 3. CRS 53: § 124-9-3. C.R.S. 1963: § 124-9-3.

**23-41-103.5. The Colorado school of mines fund - creation - control - use.** (1) There is hereby created in the state treasury the Colorado school of mines fund which shall be under the control of the board of trustees of the Colorado school of mines in accordance with the provisions of this article, and any moneys in said fund shall be invested by the state treasurer's office. Except as otherwise allowed by section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by the Colorado school of mines, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, and all interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the Colorado school of mines fund shall be used by the board of trustees of the Colorado school of mines in carrying out its statutory powers and duties.

(3) Moneys in the Colorado school of mines fund that are not needed for immediate use by the board of trustees of the Colorado school of mines may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of such amount.

**Source: L. 2000:** Entire section added, p. 396, § 1, effective August 2.

**23-41-104. Control - management.** (1) The board of trustees has the control and management of the Colorado school of mines and of the property belonging thereto, subject to the laws of this state, and may make all needful bylaws and regulations for the government of said board and for the management and government of the Colorado school of mines not inconsistent with the laws of this state.

(2) The board of trustees has the power to lease, for terms not exceeding eighty years, real or personal property, or both, to state or federal governmental agencies, persons, or entities, public or private, for the construction, use, operation, maintenance, and improvement of research and development facilities, health and recreation facilities, dormitories, and living, dining, and group housing buildings and facilities or for any of such purposes and to buy land and construct buildings and facilities therefor. None of the grounds so leased nor any of the improvements constructed thereon shall be used in any manner that discriminates against anyone because of race, creed, color, religion, national origin, ancestry, sex, or sexual orientation. The board of trustees has the power to borrow money in conjunction with such construction and leases and to assist in effecting any of such purposes. Any actions taken prior to May 27, 1965, by the board of trustees consistent with any power granted in this subsection (2) are ratified and validated.

(3) The board of trustees has the power to borrow funds, to issue securities and refunding securities, and to pledge income, fees, and revenues, as provided in sections 23-5-102 and 23-5-103. In addition to the purposes therein set forth, it may issue bonds, warrants, or certificates of indebtedness thereunder for constructing, purchasing, or otherwise acquiring, extending, and equipping research and development facilities and land for such purposes to be owned by the Colorado school of mines for the benefit of the Colorado school of mines or for the use of its students and employees. Research and development facilities and land acquired may also be used in part by such state or federal governmental agencies, persons, or entities, public or private, as may contract or enter into leases with the Colorado school of mines. Net income derived or anticipated to be derived from such facilities and land may be pledged, alone or with other sources, as authorized by section 23-5-103, to the payment of any securities or refunding securities issued pursuant to sections 23-5-102 and 23-5-103.

(4) The board of trustees has the power to lease portions of the college grounds to private persons and corporations for the construction of research and development facilities, health and recreation facilities, dormitories, and living, dining, or group housing buildings and facilities and to rent, lease, maintain, operate, and purchase such buildings and facilities. In exercising the powers conferred on it by this subsection (4), the board of trustees is authorized to enter into agreements which establish fixed rental rates for the full term of any lease, to let individual rooms and quarters within leased buildings and facilities at such rental rates as are approved by the board and prescribed in the lease, and to enter into agreements not to alter such rates during the term of any lease agreement without the prior consent of the lessor or his assigns.

(5) Nothing in subsections (2), (3), and (4) of this section shall constitute any authority to enter into any contract which in any way creates any debt or obligation upon the state on account of the construction of such buildings, improvements, or facilities.

(6) The provisions of this section shall not affect the tax liability on property leased as authorized by this section or leasehold interest resulting therefrom of individuals or corporations which do not qualify for tax exemption pursuant to the provisions of sections 39-3-106 to 39-3-113 or 39-3-116, C.R.S.

(7) Repealed.



**Source:** G.L. § 2431. G.S. § 3101. R.S. 08: § 6018. C.L. § 8037. CSA: C. 145, § 4. CRS 53: § 124-9-4. C.R.S. 1963: § 124-9-4. L. 65: § p. 1035, § 1. L. 89: (6) amended, p. 1482, § 2, effective April 23; (6) amended, p. 1492, § 7, effective June 7. L. 99: (7) repealed, p. 195, § 1, effective March 31. L. 2008: (2) amended, p. 1602, § 28, effective May 29.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 341, Session Laws of Colorado 2008.

### ANNOTATION

**Power to hire faculty not delegable.** The general management power of the school of mines' trustees under this section must necessarily include the power to hire faculty, and such power cannot be delegated unless expressly otherwise authorized by the general assembly. Hansen v. Colo. Sch. of Mines, 42 Colo. App. 292, 599 P.2d 928 (1979).

The vice-president for academic affairs and the head of the department of humanities and social sciences do not have implicit or apparent authority to bind the school of mines to employment contracts. Hansen v. Colo. Sch. of Mines, 42 Colo. App. 292, 599 P.2d 928 (1979).

### 23-41-104.5. Hazardous waste remediation - report. (Repealed)

**Source:** L. 94: Entire section added, p. 1885, § 4, effective June 1.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1995. (See L. 94, p. 1885.)

**23-41-104.6. Performance contract - authorization - operations.** (1) The general assembly hereby finds that the Colorado school of mines is an exemplary institution of higher education that has demonstrated a high degree of responsibility and capability with regard to its academic and administrative functions as evidenced by the following:

(a) The Colorado school of mines retains and graduates over sixty percent of the students who enroll in the institution;

(b) The Colorado school of mines consistently demonstrates that at least ninety percent of its graduates are employed in a field that is relevant to the education they received at the institution and that the average starting salary of those graduates is in excess of the national average for engineering school graduates;

(c) The Colorado school of mines continues to receive accreditation reviews from national accrediting organizations that raise no issues with the quality of the engineering programs offered at the institution;

(d) Senior students at the Colorado school of mines consistently score above the national average on a standardized exam for engineering school students;

(e) Over seventy-five percent of the undergraduate students at the Colorado school of mines receive some form of financial aid;

(f) The Colorado school of mines has an endowment that places it among the top fifteen public institutions of higher education in the amount of endowment per student.

(2) For the reasons specified in subsection (1) of this section, the general assembly hereby authorizes the Colorado school of mines to operate pursuant to a performance contract, as described in this section, with the department of higher education and the Colorado commission on higher education. The Colorado school of mines shall operate pursuant to a performance contract for the period specified in subsection (4) of this section.

(3) The board of trustees of the Colorado school of mines shall negotiate a performance contract with the department of higher education, subject to approval by the Colorado commission on higher education, that shall specify the performance goals that the institution shall achieve during the period that it operates under the performance contract. The specified goals shall be measurable and specific to the Colorado school of mines' role and

mission and shall include, at a minimum, the goals negotiated for the institution pursuant to sections 23-1-108 (1.5) (f) and 23-5-129 and the following issues:

(a) Appropriate levels of student enrollment, transfer, retention, and graduation rates, and institutional programs specifically designed to assist students in achieving their academic goals;

(b) Student satisfaction and student performance after graduation, including employment and enrollment in graduate programs;

(c) Assessment of the quality of the institution's academic programs, including assessment by external reviewers such as accreditation boards and employers and consideration of student performance on national examinations;

(d) Increasing financial support to sustain and enhance essential functions that are partially state funded, including:

(I) Education, industrial, and federal research capabilities and competitiveness;

(II) Student financial aid;

(III) Capital construction; and

(IV) Technological advancements.

(4) (a) The performance contracts negotiated pursuant to this section shall not take effect until approved by a joint resolution adopted by the general assembly. The grounds for rejection of the performance contracts shall include the effect of the provisions of the contracts on the funding for the Colorado school of mines and funding for the statewide system of higher education.

(b) As early as possible during the 2002 regular session and as early as possible during the 2013 regular session, the Colorado commission on higher education shall present the finalized performance contract for the applicable contract period at a joint session of the education committees of the senate and the house of representatives, or any successor committees, and the joint budget committee of the general assembly. The members of the education committees and the members of the joint budget committee shall review the financial effect of the provisions of the contract with regard to funding for the Colorado school of mines or funding for the statewide system of higher education and may recommend changes to the terms of the performance contract or renegotiation of the performance contract. If a majority of the members of the education committees and the members of the joint budget committee approve the terms of the performance contract, the chairmen of the education committees, in cooperation with the joint budget committee, shall sponsor a joint resolution to recognize and approve the performance contract. The performance contract shall be deemed approved upon final passage of said joint resolution.

(c) The school of mines shall operate pursuant to the performance contract that is approved by joint resolution passed during the 2002 regular session beginning on the date the performance contract is approved and continuing through the date on which the governor signs the joint resolution passed during the 2013 regular legislative session that approves the next performance contract. The school of mines shall operate pursuant to the performance contract that is approved by joint resolution passed during the 2013 regular session beginning on the day after the date on which the governor signs the joint resolution and continuing through the date on which the governor signs the joint resolution passed during the 2023 regular legislative session that approves the next performance contract.

(5) While operating pursuant to the performance contract negotiated pursuant to this section, the board of trustees of the Colorado school of mines:

(a) Shall continue to operate as the governing board for the institution. In addition, the governor may appoint additional advisory members to the board to sustain and enhance the role and mission of the Colorado school of mines. Any additional members of the board of trustees shall serve as nonvoting members of the board and be representative of national and international industries and research and academic institutions. The role of any such advisory members shall be to improve the trustees' opportunities to develop and enrich the academic and research programs at the institution.

(b) Need not consult with nor obtain approval from the Colorado commission on higher education to create, modify, or eliminate academic and vocational programs offered by the Colorado school of mines, so long as such creations, modifications, and eliminations are consistent with the institution's statutory role and mission;



(c) (I) (A) Shall have sole authority to establish resident and nonresident tuition rates for the Colorado school of mines so long as the school continues to meet the goals specified in the performance contract and to comply with the provisions of section 23-41-104.7.

(B) Notwithstanding any provision of sub-subparagraph (A) of this subparagraph (I) to the contrary, for fiscal years 2011-12 through 2015-16, the board of trustees shall have sole authority to establish resident and nonresident tuition rates for the Colorado school of mines; except that the annual percentage increase in resident tuition rates shall not exceed a percentage equal to two times the rate of the percentage change in the consumer price index for the Denver metropolitan area or nine percent, whichever is greater, unless the Colorado commission on higher education approves a greater tuition increase pursuant to section 23-5-130.5.

(II) Repealed.

(6) While operating pursuant to the performance contract negotiated pursuant to this section, the Colorado school of mines shall:

(a) Remain eligible for state-funded capital construction projects and controlled maintenance projects as provided in section 23-1-106;

(b) Continue to admit all Colorado resident applicants who meet the admissions criteria of the institution and shall provide equal educational opportunities to all students.

(7) and (8) Repealed.

**Source:** **L. 2001:** Entire section added, p. 1309, § 1, effective June 5. **L. 2004:** (7)(b) added by revision, pp. 723, 724, §§ 14, 18. **L. 2007:** (5)(c)(II) and (8) repealed, p. 756, § 5, effective May 10. **L. 2010:** IP(3), (4), and (5)(c)(I) amended, (SB 10-003), ch. 391, pp. 1857, 1843, §§ 37, 11, effective June 9. **L. 2011:** (2), IP(3), (4)(b), and (4)(c) amended, (SB 11-052), ch. 232, p. 1000, § 9, effective May 27. **L. 2012:** IP(3), (4)(b), and (4)(c) amended, (HB 12-1155), ch. 255, p. 1280, § 7, effective August 8.

**Editor's note:** Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2005. (See L. 2004, pp. 723, 724.)

**Cross references:** For the legislative declaration contained in the 2004 act enacting subsection (7)(b), see section 1 of chapter 215, Session Laws of Colorado 2004. For the legislative declaration in the 2010 act amending the introductory portion to subsection (3) and subsections (4) and (5)(c)(I), see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsection (2), the introductory portion to subsection (3), and subsections (4)(b) and (4)(c), see section 1 of chapter 232, Session Laws of Colorado 2011.

**23-41-104.7. Funding.** (1) Beginning in the 2011-12 fiscal year, Colorado school of mines shall use a portion of its fee-for-service funding negotiated pursuant to section 23-5-130 to provide merit-based scholarships, need-based financial aid, and graduate student support to assist students with in-state classification to attend the institution, and shall increase said portion to ensure that, no later than the 2020-21 fiscal year and for each fiscal year thereafter, all said funding shall be used for said purposes, except as otherwise provided in paragraph (b) of subsection (2) of this section.

(2) (a) (Deleted by amendment, L. 2011, (HB11-1074), ch. 61, p. 159, § 1, effective August 10, 2011.)

(b) Beginning in 2020-21 and in any fiscal year thereafter in which the average discounted tuition rate for undergraduate students with in-state classification enrolled at the Colorado school of mines is greater than thirty percent, the institution may use any amount of fee-for-service funding that is not used to maintain the average discounted tuition rate at thirty percent for other operational purposes. As used in this paragraph (b), "average discounted tuition rate" means the total of the amount of merit-based and need-based scholarships and grants awarded from institution funds to undergraduate students with in-state classification enrolled in the institution divided by the total tuition revenue from undergraduate students with in-state classification.

(3) (Deleted by amendment, L. 2011, (HB11-1074), ch. 61, p. 159, § 1, effective August 10, 2011.)

**Source:** **L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1858, § 38, effective June 9. **L. 2011:** Entire section amended, (HB 11-1074), ch. 61, p. 159, § 1, effective August 10.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-41-105. School established - role and mission.** There is hereby established a school at Golden, to be known as the Colorado school of mines. The school of mines shall be a specialized baccalaureate and graduate research institution with high admission standards. The Colorado school of mines shall have a unique mission in energy, mineral, and material science and engineering and associated engineering and science fields. The school shall be the primary institution of higher education offering energy, mineral, and material science and mineral engineering degrees at both the graduate and undergraduate levels.

**Source:** **G.L.** § 2432. **L. 1881:** p. 219, § 1. **G.S.** § 3102. **R.S. 08:** § 6019. **C.L.** § 8038. **CSA:** C. 145, § 5. **CRS 53:** § 124-9-5. **C.R.S. 1963:** § 124-9-5. **L. 85:** Entire section R&RE, p. 764, § 8, effective July 1.

#### ANNOTATION

**Faculty to determine which students entitled to degrees.** It belongs to the faculty, by whom the instruction is imparted, to say whether a student possesses the proper qualifications to entitle him to a diploma. *Steinhauer v. Arkins*, 18 Colo. App. 49, 69 P. 1075 (1902).

**The board of trustees merely represents the faculty in granting of degrees.** In the conferring of degrees, the faculty is represented by its board of trustees, and the board is bound by the judgment of the faculty and can act only as the faculty directs. *Steinhauer v. Arkins*, 18 Colo. App. 49, 69 P. 1075 (1902).

**Mandamus will not lie to compel the board of trustees to issue a diploma.** The board of trustees of the school of mines has no authority to issue a diploma to a student of the school except when required to do so by the school speaking through its faculty, and thus mandamus will not lie to compel the board of trustees to issue such diploma where the student has failed to pass the examination required by the faculty, although his failure may have been chargeable to the hostility and wrongful conduct of the faculty. *Steinhauer v. Arkins*, 18 Colo. App. 49, 69 P. 1075 (1902).

**23-41-106. May procure machinery.** The board of trustees is authorized to procure such machinery and other appliances and make such necessary additions to the Colorado school of mines buildings as may be necessary to carry out the object and intention of such institution and to promote the welfare thereof whenever the funds provided for the support of said school will warrant the same.

**Source:** **G.L.** § 2433. **G.S.** § 3103. **R.S. 08:** § 6020. **C.L.** § 8039. **CSA:** C. 145, § 6. **CRS 53:** § 124-9-6. **C.R.S. 1963:** § 124-9-6.

**23-41-107. Tuition - school open to all.** The Colorado school of mines is open for instruction to all bona fide residents of this state, without regard to sex or color, upon the payment of such reasonable tuition fees as may be prescribed by the board of trustees pursuant to section 23-41-104.6. With the consent of such board, students from other states, territories, or countries may receive education thereat upon such terms and at such rates of tuition as such board may determine.

**Source:** **G.L.** § 2434. **G.S.** § 3104. **R.S. 08:** § 6021. **C.L.** § 8040. **L. 33:** p. 852, § 1. **CSA:** C. 145, § 7. **CRS 53:** § 124-9-7. **C.R.S. 1963:** § 124-9-7. **L. 70:** p. 357, § 12. **L. 93:** Entire section amended, p. 1519, § 27, effective June 6. **L. 2008:** Entire section amended, p. 119, § 5, effective March 19. **L. 2010:** Entire section amended, (SB 10-003), ch. 391, p. 1843, § 12, effective June 9.



**Cross references:** (1) For classification of students for tuition purposes, see article 7 of this title.  
(2) For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-41-108. Officers - meeting of board.** The board, at its first meeting and biennially thereafter, shall elect one of its number president of said board, and shall also appoint a secretary and a treasurer, either from its own number or other suitable persons as it may deem best, and prescribe their duties, and, at any time in its discretion, may remove such secretary or treasurer. The meetings of said board shall be held at Golden, Jefferson county, Colorado; except that, when the work of the board so requires in its discretion, it may hold meetings at any other place in the state of Colorado.

**Source:** G.L. § 2435. G.S. § 3105. R.S. 08: § 6022. C.L. § 8041. L. 35: p. 1026, § 1. CSA: C. 145, § 8. CRS 53: § 124-9-8. C.R.S. 1963: § 124-9-8.

**23-41-109. Vacancies.** (1) The governor of this state, with the advice and consent of the senate, at each regular session of the general assembly, shall fill, by appointment, all vacancies in offices of members of said board of trustees appointed by the governor occurring either by expiration of their terms of office or otherwise. Any vacancy in an office of a member of such board appointed by the governor which occurs when the general assembly is not in session may be temporarily filled by the governor until the next meeting of the general assembly, but, at all times, at least one appointed member of said board of trustees shall be a graduate of the Colorado school of mines upon whom a degree has been conferred by its board of trustees not less than ten years prior to his appointment.

(2) Commencing with appointments made by the governor in 1977, and at all times thereafter, at least four and not more than five of the appointed members of the board shall be graduates of the Colorado school of mines upon each of whom a degree has been conferred by its board of trustees not less than ten years prior to his appointment.

(3) Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term.

**Source:** G.L. § 2436. G.S. § 3106. R.S. 08: § 6023. L. 09: p. 501, § 1. C.L. § 8042. CSA: C. 145, § 9. CRS 53: § 124-9-9. C.R.S. 1963: § 124-9-9. L. 75: Entire section amended, p. 739, § 5, effective January 1, 1976. L. 81: (1) amended, p. 2027, § 28, effective July 14.

**23-41-110. Treasurer's bond.** The board of trustees shall require its treasurer to give such bond as it deems sufficient to protect said institution against loss of any funds which may come into his hands as such treasurer, conditioned for the safekeeping and faithful disbursement thereof. The treasurer of said board shall not pay out any of the funds which shall come into his hands as treasurer, except upon the order of the president of said board countersigned by the secretary thereof.

**Source:** L. 1883: p. 275, § 3. G.S. § 3112. R.S. 08: § 6029. C.L. § 8051. CSA: C. 145, § 18. CRS 53: § 124-9-17. C.R.S. 1963: § 124-9-10.

**23-41-111. Assays and analyses.** The president of the faculty of the school of mines, or professor in charge thereof, who shall be appointed by said board of trustees, shall be known as president of the Colorado school of mines. It is lawful for said president to make or have made by any member of the faculty or by students, for residents of Colorado only, assays and analyses of Colorado ores and minerals and to make reports of such results free of charge upon blanks printed for that purpose, which shall, in a conspicuous place, have printed thereon: "The following is the assay or analysis of sample received from ..... and is not to be used in any way for promotion purposes."

**Source:** G.L. § 2443. L. 1883: p. 276, § 4. G.S. § 3113. R.S. 08: § 6030. L. 13: p. 577, § 1. C.L. § 8052. CSA: C. 145, § 19. CRS 53: § 124-9-18. C.R.S. 1963: § 124-9-11.

**23-41-112. Transfer of property.** All property, both real and personal, belonging to the Colorado school of mines, shall be vested in the trustees, in trust for the use and benefit of the state of Colorado.

**Source:** G.L. § 2444. G.S. § 3114. R.S. 08: § 6031. C.L. § 8053. CSA: C. 145, § 20. CRS 53: § 124-9-19. C.R.S. 1963: § 124-9-12.

**23-41-113. Fund used exclusively for school.** The school of mines fund shall be used solely for the support of the Colorado school of mines and for no other purpose, notwithstanding any provision in the law to establish the office of commissioner of mines.

**Source:** G.L. § 2445. G.S. § 3115. R.S. 08: § 6032. C.L. § 8054. CSA: C. 145, § 21. CRS 53: § 124-9-20. C.R.S. 1963: § 124-9-13.

**23-41-114. Colorado energy research institute - creation.** (1) There is hereby created at the Colorado school of mines the Colorado energy research institute, which shall be referred to in this section as the "institute". It is the intent of this section that the institute serve as a mechanism for the development of energy and energy-related minerals research programs, including programs at single state or private educational or research institutions and multidisciplinary, interuniversity, government-university, and industry-university energy and energy-related minerals research programs and projects. It is the further intent of this section that the institute provide the mechanism for enhancing the development and promotion of energy and energy-related minerals education programs in the state.

(2) The principal administrative officer of the institute shall be the president of the Colorado school of mines, and budgetary and fiscal procedures and activities of the institute shall be under the supervision of the Colorado school of mines.

(3) It is the duty of the institute to:

(a) Maintain liaison with the state to identify the important regional energy and energy-related minerals problems, including their relationship to the use of the waters of the state;

(b) Solicit and determine, through inquiry of and consultation with the executive and legislative branches of the state government and with local governments, the needs of the said branches and governments for energy data and background information relating to the determination of state policy and actions in relation to energy shortages, planning, and long-range options, and to collect, maintain, and provide such data and background material;

(c) Promote the development of energy and energy-related minerals research programs and projects in single or multiple disciplines at state and private educational and research institutions;

(d) Administer a phase-out program of energy grants to enrolled undergraduates within the higher education system;

(e) Develop and promote energy and energy-related minerals education programs in the state;

(f) Administer programs of public education in energy development, utilization, and conservation, which shall include, but shall not be limited to, energy status reports, sponsorship of symposia, demonstration programs, and reports on research results;

(g) Contract for and to accept any gifts or grants or loans or funds or property or financial or other aid in any form from the United States or any agency or instrumentality thereof, or from the state or any executive or legislative agency thereof, or from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof, and to have the authority to expend such funds.

(h) Repealed.

(4) The institute shall conduct:

(a) Regular, mutual consultations about its progress in meeting the goals set forth in this section with the department of natural resources; and



(b) The following specific research and educational programs designed to meet the information needs of the department of natural resources, other agencies of the state's executive branch, the legislature, and the public:

(I) (A) The collection of primary data on the economic impact of energy industries, emphasizing oil and gas, on municipalities and counties; the establishment of an energy economics database to be housed and maintained in the Colorado school of mines division of economics and business and the establishment of internet access to such database; the development of reliable means of forecasting by the institute's program in energy economics; and support for the analysis, interpretation, and periodic publication of the findings of the economic analysis.

(B) For the purposes authorized by this subparagraph (I), up to five hundred thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(II) (A) The development of research in those sectors of geoscience and engineering that are most critical to the formation of renewable energy and continued enhanced production of natural gas and oil from Rocky Mountain reservoirs, including production optimization and resource distribution and synergies with renewable resources.

(B) For the purpose authorized by this subparagraph (II), up to one million dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (II): Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(III) (A) To inform the public, legislative and regulatory bodies, and working professionals about new technologies and their relationship to traditional sources of energy to promote the public's understanding of how its everyday energy needs are met.

(B) For the purpose authorized by this subparagraph (III), up to three hundred seventy-five thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (III): One hundred seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and two hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(IV) (A) To facilitate economic development by funding local community colleges, colleges, and vocational schools in regions where energy development is occurring and by providing grants for job training and education resources to advance knowledge and skill development that goes beyond basic research and helps attract, educate, and train people for employment.

(B) For the purpose authorized by this subparagraph (IV), up to one million dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (IV): Five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and five hundred thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

(V) (A) To pay the membership dues of the energy council referred to in section 2-3-311 (2) (b), C.R.S.

(B) For the purpose authorized by this subparagraph (V), up to fifty six thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(VI) (A) To provide grants through the Colorado energy office created in section 24-38.5-101, C.R.S., for the development of a central resource for building trade professionals, including contractors, engineers, architects, and designers, for the purpose of increasing available tools and education to advance energy-efficient design and construction.

(B) For the purpose authorized by this subparagraph (VI), up to one hundred twenty-five thousand dollars of the unencumbered balance available in the oil and gas conservation and environmental response fund created in section 34-60-122 (5), C.R.S., may be expended.

(C) Of the amount specified in sub-subparagraph (B) of this subparagraph (VI): Seventy-five thousand dollars may be expended in the state fiscal year beginning July 1, 2005; and fifty thousand dollars may be expended in the state fiscal year beginning July 1, 2006, if an estimate made on or about May 1, 2006, of the projected unencumbered balance that will be available in the oil and gas conservation and environmental response fund on July 1, 2006, exceeds two and one-half million dollars.

**Source:** **L. 74:** Entire section added, p. 382, § 1, effective May 8. **L. 77:** (3)(g) to (3)(j) added, p. 1118, § 1, effective June 2; (6) added by revision, p. 1118, § 2. **L. 83:** Entire section RC&RE, p. 808, § 1, effective July 1. **L. 96:** (3)(h) repealed, p. 1240, § 94, effective August 7. **L. 2005:** (4) added, p. 539, § 1, effective July 1. **L. 2006:** (4)(b)(I)(B), (4)(b)(II)(B), (4)(b)(II)(C), (4)(b)(III)(B), (4)(b)(III)(C), (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(V)(B), (4)(b)(VI)(B), and (4)(b)(VI)(C) amended, p. 1498, § 32, effective June 1. **L. 2008:** (4)(b)(VI)(A) amended, p. 69, § 5, effective March 18. **L. 2012:** (4)(b)(VI)(A) amended, (HB 12-1315), ch. 224, § 962, § 14, effective July 1.

**Editor's note:** (1) In 1974, this section was originally enacted as 124-9-19 but was renumbered on revision and included in the compilation of the C.R.S. 1973 as § 23-41-114. (See L. 74, p. 382.)

(2) Subsection (6) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118, § 2.)

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237 Session Laws of Colorado 1996.

### **23-41-115. Advisory council on energy-related minerals research. (Repealed)**

**Source:** **L. 74:** Entire section added, p. 383, § 1, effective May 8. **L. 77:** (5) added by revision, p. 1118, § 2.

**Editor's note:** (1) In 1974, this section was originally enacted as 124-9-20 but was renumbered on revision and included in the compilation of the C.R.S. 1973 as § 23-41-115. (See L. 74, p. 382.)

(2) Subsection (5) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118, § 2.)

### **23-41-115.5. Legislative declaration. (Repealed)**

**Source:** **L. 77:** Entire section added, p. 1118, § 2, effective June 2.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1982. (See L. 77, p. 1118.)

**23-41-116. Rents or charges for buildings and facilities for research.** The board of trustees is authorized to contract for or impose and collect rents or charges for the use of Colorado school of mines' buildings and facilities for research, including research conducted by or under the auspices of the Colorado school of mines. Such rents or charges shall



be at a level reasonably calculated to return or amortize the cost of such buildings and facilities within a reasonable period not exceeding the life of such buildings and facilities; but such user charges or rents may not be imposed and collected in such a manner as to require payment directly or indirectly from the state general fund, tuition receipts, or student fees.

**Source:** L. 77: Entire section added, p. 1120, § 1, effective May 16.

**23-41-117. Research building revolving fund - appropriation of fund.** There is established in the office of the state treasurer the Colorado school of mines research building revolving fund, and there shall be credited to said fund the user charges or rents authorized by section 23-41-116 and imposed by the board of trustees, specific appropriations or grants or gifts made to said fund, and the proceeds of the sale of anticipation warrants authorized by section 23-41-118. All such moneys so credited to said fund are appropriated to the Colorado school of mines for the planning, constructing, and equipping of additional research buildings and facilities for the Colorado school of mines.

**Source:** L. 77: Entire section added, p. 1120, § 1, effective May 16. L. 96: Entire section amended, p. 1240, § 95, effective August 7. L. 99: Entire section amended, p. 853, § 15, effective May 24.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-41-118. Anticipation warrants.** The state treasurer is authorized to issue anticipation warrants in such amounts as requested by the board of trustees, the total amount of which shall not exceed one million dollars, to be repaid exclusively from the user revenues accruing to the Colorado school of mines research building revolving fund as provided in this section and sections 23-41-116 and 23-41-117. The anticipation warrants shall bear interest at a rate not exceeding six percent per annum and shall not be sold at a price less than the face value thereof. Disbursements from said fund shall be only by warrant upon vouchers certified by the board of trustees.

**Source:** L. 77: Entire section added, p. 1121, § 1, effective May 16.

**23-41-119. Purchase of anticipation warrants.** It is lawful for the state of Colorado, the state treasurer, any department, institution, or agency of the state, or any political subdivision of the state to purchase anticipation warrants issued pursuant to section 23-41-118 if such warrants satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.; but not more than twenty percent of the total of any specific fund of the state or any of its departments, institutions, agencies, or political subdivisions shall be invested in such warrants.

**Source:** L. 77: Entire section added, p. 1121, § 1, effective May 16. L. 89: Entire section amended, p. 1128, § 63, effective July 1.

**23-41-120. Warrants as security - when.** Anticipation warrants issued pursuant to section 23-41-118 may be used as security for any depository bond or obligation where any kind of bonds or other securities must or may, by law, be deposited as security.

**Source:** L. 77: Entire section added, p. 1121, § 1, effective May 16.

**23-41-121. Tax exemption.** Any anticipation warrants issued pursuant to the provisions of section 23-41-118 by the board of trustees shall be exempt from taxation for state, county, school district, special district, municipal, or any other purpose in the state of Colorado.

**Source: L. 77:** Entire section added, p. 1121, § 1, effective May 16.

**23-41-122. Borrowing funds.** For the purpose of obtaining funds for the planning, constructing, and equipping of research buildings and facilities for the Colorado school of mines, the board of trustees is authorized to enter into contracts with any person, corporation, or state or federal government agency for the advancement of money for such purposes and providing for the repayment of such advances with interest from the Colorado school of mines research building revolving fund.

**Source: L. 77:** Entire section added, p. 1121, § 1, effective May 16.

**23-41-123. Moneys from Colorado school of mines lands.** All moneys that arise from the sale of lands, acquired other than by appropriation, belonging to the Colorado school of mines, or from the leasing of lands belonging to the said school, or from interest arising on the investment of such funds shall be deposited in the Colorado school of mines fund created in section 23-41-103.5 and are placed under the exclusive control of the board of trustees of the said school. The state treasurer is instructed to turn over to the said trustees all the moneys, warrants, bonds, and other securities of any nature that have come from the sale of said lands belonging to said school.

**Source: L. 87:** Entire section added, p. 860, § 1, effective April 22. **L. 2000:** Entire section amended, p. 396, § 2, effective August 2.

## PART 2

### GEOLOGICAL SURVEY

**23-41-201. Transfer of geological survey - memorandum of understanding - report.** (1) On January 31, 2013, the Colorado geological survey and the office of the state geologist and their powers, duties, and functions are transferred from the department of natural resources to the Colorado school of mines. The Colorado school of mines shall exercise its powers and perform its functions and duties as if the geological survey and the office of the state geologist were transferred to the Colorado school of mines by a **type 2** transfer.

(2) Prior to the transfer, the president of the Colorado school of mines and the executive director of the department of natural resources shall develop and enter into a memorandum of understanding concerning the transfer of the powers, duties, and functions of the geological survey and the office of the state geologist. The memorandum of understanding shall include, but is not limited to, provisions concerning the following:

- (a) The functions and objectives of the geological survey;
- (b) The transfer of employees of the geological survey and the office of the state geologist, in conformance with the laws applicable to the employees;
- (c) The transfer of real and personal property of the geological survey;
- (d) Existing contracts of the department of natural resources; and
- (e) Existing appropriations allocated to the Colorado geological survey and the office of the state geologist and the geological survey cash fund.

(3) On and after January 31, 2013, whenever the executive director of the department of natural resources or the department of natural resources is referred to or designated by any contract or other document in connection with the powers, duties, and functions transferred to the Colorado school of mines, the reference or designation shall be deemed to apply to the Colorado school of mines. All contracts entered into by the executive director of the department of natural resources prior to January 31, 2013, in connection with the powers, duties, and functions transferred to the Colorado school of mines are hereby validated, with the president of the Colorado school of mines succeeding to all the rights and obligations of such contracts.



(4) On January 31, 2013, the unexpended and unencumbered appropriations of funds for the current fiscal year made to the department of natural resources and allocated for the Colorado geological survey and office of the state geologist and that are related to the powers, duties, and functions transferred to the Colorado school of mines shall be transferred to the Colorado school of mines.

(5) If the Colorado school of mines and the department of natural resources do not enter into a memorandum of understanding on or before December 31, 2012, that is consistent with the provisions of this section, then the transfer of the powers, duties, and functions of the geological survey to the Colorado school of mines shall not occur. Pursuant to section 23-41-209, the president of the Colorado school of mines shall notify the revisor of statutes regarding the status of the transfer.

(6) (a) On or before December 1, 2012, and in accordance with the provisions of section 24-1-136 (9), C.R.S., the Colorado school of mines shall report to the joint budget committee, the agriculture, livestock, and natural resources committee of the house of representatives, or its successor committee, and the agriculture, natural resources, and energy committee of the senate, or its successor committee, concerning the transfer of the geological survey and the office of the state geologist to the Colorado school of mines.

(b) At a minimum, the report shall include information concerning:

(I) Whether the president of the Colorado school of mines and the executive director of the department of natural resources entered into a memorandum of understanding affirming the transfer of the Colorado geological survey and the office of the state geologist to the Colorado school of mines; and

(II) The contents of the memorandum of understanding, including a description of the contents of the memorandum of understanding relating to the provisions required pursuant to paragraphs (a) to (e) of subsection (2) of this section.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1189, § 1, effective June 4.

**23-41-202. Legislative declaration.** (1) It is the intent of the general assembly that sufficient funds be provided to cover the direct costs of a base staff and their operating expenses to ensure functional continuity of the Colorado geological survey as provided by statute and as determined pursuant to any memorandum of understanding entered into pursuant to section 23-41-201. The survey shall make appropriate charges for preparation and reproduction of reports, maps, and publications; except that the survey shall not directly compete with consultants by entering into contracts with the general public and industries for providing geological and related services.

(2) It is the intent of the general assembly that the Colorado geological survey place primary emphasis on the statutory objectives of recognition and mitigation of geologic risks affecting public health and safety and promotion of economic development of the mineral resources, including, but not limited to, metals, oil, gas, coalbed methane, and aggregate, of Colorado. Such work shall require appropriate consideration to public safety and environmental concerns. Economic development projects proposed or undertaken shall involve basic and applied geologic research and mapping similar to that undertaken by geological surveys in other states and be designed to encourage resource exploration and development by industry. The Colorado geological survey shall not undertake economic development projects that directly compete with the private sector, but shall produce basic data, research reports, and maps useful to consultants and industry. Economic development projects undertaken may be funded by private foundations and federal agencies, industrial consortia or agencies of other states, or by the general fund.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1191, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-104.5 as it exists in 2012.

**23-41-203. Geological survey created - purpose - avalanche information center created.** (1) There is hereby established the Colorado geological survey within the Colorado school of mines. The Colorado school of mines board of trustees and its designees shall have sole authority to supervise the functions, planning, management, and fiscal procedures of the Colorado geological survey. The purpose of the survey is to encourage by use of appropriate means the full development of the state's natural resources to the benefit of the citizens of the state.

(2) There is hereby created, within the Colorado geological survey, the Colorado avalanche information center to carry out a program of avalanche forecasting and education.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1191, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-101 as it exists in 2012.

**23-41-204. State geologist - appointment - qualifications.** The president of the Colorado school of mines shall appoint a state geologist. The state geologist shall be the director of the Colorado geological survey. The state geologist shall be a professional geologist, as defined in section 23-41-208, and shall have professional, managerial, supervisory, practical, and technical experience and knowledge in the use of geology, earth sciences, and natural resource planning and management.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1192, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-102 as it exists in 2012.

**23-41-205. Objectives of survey - duties of state geologist.** (1) The Colorado geological survey shall provide assistance to and cooperate with the general public, industries, and agencies of state government, including institutions of higher education. The Colorado school of mines shall determine the priority of the objectives of the Colorado geological survey, subject to available appropriations and consistent with the memorandum of understanding entered into pursuant to section 23-41-201, which objectives shall include:

- (a) To assist, consult with, and advise existing state and local governmental agencies on geologic problems;
- (b) To promote economic development of mineral and energy resources;
- (c) To conduct studies to develop geological information;
- (d) To inventory and analyze the state's mineral and energy resources as to quantity, chemical composition, physical properties, location, and possible use;
- (e) To collect and preserve geologic information;
- (f) To advise the state on transactions dealing with natural resources between state agencies and with other states and the federal government on common problems and studies;
- (g) To evaluate the physical features of Colorado with reference to present and potential human and animal use;
- (h) To prepare, publish, and distribute reports, maps, and bulletins when necessary to achieve the purposes of this part 2;
- (i) To determine areas of natural geologic hazards that could affect the safety of or economic loss to the citizens of Colorado;
- (j) To advise the state engineer in the promulgation of rules pursuant to article 90.5 of title 37, C.R.S., and to provide other governmental agencies with technical assistance regarding geothermal resources as needed;
- (k) To conduct scientific studies of how geology affects and controls water resources, especially within Colorado;
- (l) To conduct scientific research that advances knowledge and understanding in related fields; and



(m) To promote safety by reducing the impact of avalanches on recreation, industry, and transportation in the state through a program of forecasting and education conducted by the Colorado avalanche information center.

(2) The duties of the state geologist shall be to fulfill the objectives of this part 2 and, together with the employees of the survey, work for the maximum beneficial and most efficient use of the geologic processes for the protection of and economic benefit to the citizens of Colorado.

(3) The state geologist shall, upon receiving a preliminary plan pursuant to section 30-28-136 (1) (i), C.R.S., or a major activity notice pursuant to section 31-23-225, C.R.S., review the plan or notice to determine whether the development or activity which is the subject of the plan or notice will interfere with the extraction of commercial mineral deposits as defined in section 34-1-302, C.R.S. If the state geologist determines that a potential for such interference exists, he or she shall, within twenty-four days after receipt of the plan or notice, notify the appropriate board of county commissioners or governing body of a municipality of the existence of a potential interference.

(4) The state geologist shall administer the provisions of section 25-15-202 (4) (b), C.R.S., requiring the Colorado geological survey to review information on an application and make a recommendation on the geological suitability, or the need for further study, of proposed hazardous waste disposal sites for land disposal of hazardous waste and the provisions of section 25-15-216, C.R.S., requiring the Colorado geological survey to conduct a study of the geological suitability of areas of the state for hazardous waste disposal sites.

(5) Subject to available appropriations, the geological survey may prepare an annual report describing the status of the mineral industry and describing current influences affecting the growth and viability of the mineral industry in the state, and setting forth recommendations to foster the industry. The geological survey may partner with other agencies or organizations to prepare the annual report.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1192, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-103 as it exists in 2012.

**23-41-206. Employees.** The Colorado school of mines may employ such assistants and personnel as may be deemed necessary to carry out the purposes of this part 2, subject to applicable provisions of law.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1193, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-104 as it exists in 2012.

**23-41-207. Fees - adjustments - geological survey cash fund - created.** (1) (a) The Colorado geological survey is authorized to enter into agreements to provide services to the general public, industries, and units of local government and to establish and collect fees to recover direct costs of providing said services pursuant to sections 24-65.1-302 and 30-28-136, C.R.S., and section 23-41-205 or pursuant to agreement; except that this provision shall apply only to those services rendered upon items which a unit of local government is required by statute to submit for review or for such other services as are requested pursuant to an agreement.

(b) The Colorado geological survey is authorized to establish and collect fees to recover direct costs of providing services to other agencies of state government pursuant to section 23-41-205.

(2) (a) The Colorado geological survey shall propose, as part of its annual budget request, an adjustment in the amount of each fee which it is authorized to collect pursuant to this section.

(b) The Colorado geological survey shall adjust its fees so that the revenue generated from said fees approximates its direct costs. Such fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the Colorado geological survey shall be transmitted to the state treasurer, who shall credit the same to the geological survey cash fund, which fund is hereby created. All moneys credited to the geological survey cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the geological survey cash fund shall be continuously appropriated to the Colorado geological survey for the purposes of this part 2.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1194, § 1, effective June 4.

**Editor's note:** This section is similar to § 34-1-105 as it exists in 2012.

**23-41-208. Reports concerning geologic information - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Geology" means the science which treats of the earth in general; the earth's processes and its history; investigation of the earth's crust and the rocks and other materials which compose it; and the applied science of utilizing knowledge of the earth's history, processes, constituent rocks, minerals, liquids, gasses, and other materials for the use of mankind; and

(b) "Professional geologist" is a person engaged in the practice of geology who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty semester (forty-five quarter) hours of undergraduate or graduate work in a field of geology and whose postbaccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work.

(2) Any report required by law or by rule and prepared as a result of or based on a geologic study or on geologic data, or which contains information relating to geology and which is to be presented to or is prepared for any state agency, political subdivision of the state, or recognized state or local board or commission, shall be prepared or approved by a professional geologist.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1194, § 1, effective June 4.

**Editor's note:** This section is similar to §§ 34-1-201 and 34-1-202 as they exist in 2012.

**23-41-209. Repeal of part or section - notice to the revisor of statutes.** (1) Except as provided in subsection (2) of this section, this part 2 is repealed, effective January 31, 2013.

(2) If the president of the Colorado school of mines notifies the revisor of statutes in writing before January 31, 2013, that the Colorado school of mines has entered into a memorandum of understanding with the department of natural resources, consistent with this part 2, affirming the transfer of the powers, duties, and functions of the geological survey from the department of natural resources to the Colorado school of mines, then this part 2 is not repealed, and this section is repealed, effective January 31, 2013.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1195, § 1, effective June 4.

**23-41-210. Annual report to general assembly - repeal.** (1) (a) On or before December 1, 2013, and each December 1 thereafter, and in accordance with the provisions of section 24-1-136 (9), C.R.S., the Colorado school of mines shall submit a written report to the joint budget committee, the agriculture, livestock, and natural resources committee of



the house of representatives, or its successor committee, and the agriculture, natural resources, and energy committee of the senate, or its successor committee, concerning the implementation of this part 2.

- (b) At a minimum, the annual report shall include information concerning:
- (I) The priority of functions and objectives for the Colorado geological survey, as determined by the Colorado school of mines, including the priority of those objectives described in section 23-41-205 (1) (a) to (1) (m);

(II) The implementation of the objectives of the avalanche information center;

(III) The severance tax moneys received by the Colorado geological survey and other state funding, and the sufficiency of those moneys for the implementation of the functions and objectives of the Colorado geological survey;

(IV) Additional funding or other resources from any other source that are available to carry out the functions and objectives of the Colorado geological survey;

(V) The number of full-time-equivalent employees dedicated to the implementation of this part 2;

(VI) Collaboration with state agencies, industry, academic institutions, or other entities concerning the implementation of this part 2; and

(VII) The objectives for the Colorado geological survey, the office of the state geologist, and the avalanche information center for the next year.
- (c) This section is repealed, effective December 31, 2017.

**Source: L. 2012:** Entire part added, (HB 12-1355), ch. 247, p. 1195, § 1, effective June 4.

ARTICLE 50

State Colleges - General Provisions

23-50-101 to 23-50-115. (Repealed)

**Source: L. 2003:** Entire article repealed, p. 775, § 1, effective July 1.

**Editor’s note:** This article was numbered as article 5 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 51

Adams State University

**Editor’s note:** This article was numbered as article 8 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

23-51-101.	University established - role and mission.	23-51-104.	Lease of grounds - construction.
23-51-102.	Board of trustees - creation - members - powers - duties.	23-51-105.	No authority to create state obligation.
23-51-102.5.	Tuition - repeal.	23-51-106.	Board of trustees to control buildings.
23-51-103.	Board of trustees for Adams state university fund - creation - control - use - repeal.	23-51-107.	Board of trustees may rent buildings.
		23-51-108.	State property at lease end.

23-51-109. Leasehold interest may be sold.

23-51-110. Board of trustees may rent rooms.

**23-51-101. University established - role and mission.** There is hereby established a college at Alamosa, to be known as Adams state university, which shall be a general baccalaureate institution with moderately selective admission standards. Adams state university shall offer undergraduate liberal arts and sciences, teacher preparation, and business degree programs, a limited number of graduate level programs, and two-year transfer programs with a community college role and mission. Adams state university shall receive resident credit for two-year course offerings in its commission-approved service area. Adams state university has a significant responsibility to provide access to teacher education in rural Colorado. Adams state university shall also serve as a regional education provider. In addition, Adams state university shall offer programs, when feasible, that preserve and promote the unique history and culture of the region.

**Source:** L. 2003: Entire article R&RE, p. 776, § 4, effective July 1. L. 2012: Entire section amended, (HB 12-1080), ch. 189, p. 753, § 1, effective May 19.

**Editor's note:** This section is similar to former § 23-51-101 as it existed prior to 2003.

**23-51-102. Board of trustees - creation - members - powers - duties.** (1) (a) There is established the board of trustees for Adams state university, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Adams state university. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Adams state university;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Adams state university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Adams state university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Adams state university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, nine members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to the board of trustees shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the nine appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the nine members appointed by the governor, at



least two shall reside in Alamosa, Conejos, Costilla, Huerfano, Mineral, Rio Grande, or Sagauche county. Of the nine members appointed by the governor, no more than five members shall be from the same political party. Each trustee shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The tenth member of the board of trustees shall be a full-time junior or senior student at Adams state university, elected by the members of the student body of Adams state university. The term of the student member shall be one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The eleventh member shall be a member of the faculty of Adams state university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of the office, which oath shall be placed and kept on file in the office of the secretary of state.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Adams state university are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges and universities in Colorado and applicable to Adams state university shall remain in force and effect unless and until changed by the board of trustees.

(7) In addition to those powers conferred elsewhere in this article, the board of trustees has the power to:

- (a) Appoint a president of Adams state university;
- (b) Appoint such other executive officers of the university as may be required;
- (c) Appoint faculty and employees as may be required;
- (d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;
- (e) With the advice of the faculty, prescribe the degree programs for the university; and
- (f) Prescribe the student admissions qualifications.

**Source:** **L. 2003:** Entire article R&RE, p. 776, § 4, effective July 1. **L. 2006:** (2) amended, p. 1231, § 4, effective May 26. **L. 2012:** (1), (3), (4), (6), and (7) amended, (HB 12-1080), ch. 189, p. 753, § 2, effective May 19.

**23-51-102.5. Tuition - repeal.** (1) For fiscal years 2011-12 through 2015-16, the board of trustees, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend Adams state university.

(2) This section is repealed, effective July 1, 2016.

**Source:** **L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1844, § 13, effective June 9. **L. 2012:** (1) amended, (HB 12-1080), ch. 189, p. 755, § 3, effective May 19.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-51-103. Board of trustees for Adams state university fund - creation - control - use - repeal.** (1) There is created in the state treasury the board of trustees for Adams state

university fund, referred to in this section as the “fund”, which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Adams state university shall be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Adams state university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) (a) All unexpended and unencumbered moneys remaining in the board of trustees for Adams state college fund as of August 7, 2012, shall be transferred to the board of trustees for Adams state university fund.

(b) This subsection (4) is repealed, effective July 1, 2013.

**Source:** L. 2003: Entire article R&RE, p. 778, § 4, effective July 1. L. 2012: (1) and (2) amended and (4) added, (HB 12-1080), ch. 189, p. 755, § 4, effective May 19.

**23-51-104. Lease of grounds - construction.** For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of the school, to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of Adams state university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to such regulations as it may prescribe, and upon the condition that private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of such buildings or from their sale to the board of trustees acting for the state.

**Source:** L. 2003: Entire article R&RE, p. 779, § 4, effective July 1. L. 2012: Entire section amended, (HB 12-1080), ch. 189, p. 755, § 5, effective May 19.

**Editor’s note:** This section is similar to former § 23-51-102 as it existed prior to 2003.

**23-51-105. No authority to create state obligation.** Nothing in this article constitutes authority to enter into a contract which shall in any way create a debt or obligation upon the state on account of the construction of buildings or improvements; except that buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Adams state university under the terms of this article and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

**Source:** L. 2003: Entire article R&RE, p. 779, § 4, effective July 1. L. 2012: Entire section amended, (HB 12-1080), ch. 189, p. 756, § 6, effective May 19.

**Editor’s note:** This section is similar to former § 23-51-103 as it existed prior to 2003.

**23-51-106. Board of trustees to control buildings.** The management of buildings erected and equipped under the terms of this article, and the scale of rentals thereof, shall be subject to the approval of the board of trustees.



**Source: L. 2003:** Entire article R&RE, p. 779, § 4, effective July 1.

**Editor’s note:** This section is similar to former § 23-51-104 as it existed prior to 2003.

**23-51-107. Board of trustees may rent buildings.** The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control that are available for general maintenance purposes.

**Source: L. 2003:** Entire article R&RE, p. 780, § 4, effective July 1.

**Editor’s note:** This section is similar to former § 23-51-105 as it existed prior to 2003.

**23-51-108. State property at lease end.** Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

**Source: L. 2003:** Entire article R&RE, p. 780, § 4, effective July 1.

**Editor’s note:** This section is similar to former § 23-51-106 as it existed prior to 2003.

**23-51-109. Leasehold interest may be sold.** Nothing in this article shall prevent the transfer or sale of the leasehold interest prior to its expiration, subject to the approval of the board of trustees.

**Source: L. 2003:** Entire article R&RE, p. 780, § 4, effective July 1.

**Editor’s note:** This section is similar to former § 23-51-107 as it existed prior to 2003.

**23-51-110. Board of trustees may rent rooms.** Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under the leases or contracts for reasonable compensation as it may deem best in relation to current operation, maintenance, and upkeep costs.

**Source: L. 2003:** Entire article R&RE, p. 780, § 4, effective July 1.

**Editor’s note:** This section is similar to former § 23-51-108 as it existed prior to 2003.

ARTICLE 52

Fort Lewis College - Grand Junction School

PART 1		- control - use.	
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## PART 1

## FORT LEWIS COLLEGE

**Editor's note:** This part 1 was numbered as article 14 of chapter 124, C.R.S. 1963. The provisions of this part 1 were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1971, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**23-52-101. College established - role and mission - governance.** (1) There is hereby established a college at Durango, to be known as Fort Lewis college, which shall be a public liberal arts college, with selective admission standards with a historic and continuing commitment to Native American education. In addition, the college may offer professional programs and a limited number of graduate programs to serve regional needs. The center of southwest studies provides a valuable regional, national, and international resource.

(2) (a) Fort Lewis college shall be a regional education provider and shall have two-year authority only for an associate of arts degree in agricultural science.

(b) The Colorado commission on higher education shall, in consultation with the board of trustees of Fort Lewis college, establish the criteria for designation as a regional education provider.

**Source:** L. 71: R&RE, p. 1182, § 1. C.R.S. 1963: § 124-14-1. L. 2002: Entire section R&RE, p. 1251, § 2, effective July 1; entire part amended, p. 1242, § 11, effective August 7. L. 2005: (1) amended, p. 510, § 1, effective May 12. L. 2009: (2)(a) amended, (SB 09-043), ch. 284, p. 1293 § 2, effective May 20.

**Editor's note:** This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

**Cross references:** (1) For jurisdiction of Fort Lewis ceded to United States, see § 3-1-116.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration contained in the 2009 act amending subsection (2)(a), see section 1 of chapter 284, Session Laws of Colorado 2009.

**23-52-102. Board of trustees - creation - members - powers - duties.** (1) (a) Effective July 1, 2002, there is established the board of trustees for Fort Lewis college, referred to in this article as the "board of trustees", which shall consist of nine members and shall be the governing authority for Fort Lewis college. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Fort Lewis college;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Fort Lewis college such money, lands, or other property as may be donated or devised to or for the college.



(b) The board of trustees and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Fort Lewis college, and may conduct the business of said college in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, a secretary, and a treasurer, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Fort Lewis college shall provide staff support for the board of trustees.

(2) The governor shall appoint, on or before August 1, 2002, with the consent of the senate, seven members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on or before August 1, 2002. Appointments of members to take office on or before August 1, 2002, shall be made so that two members of the board have terms expiring on January 1, 2004, two members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, and one member of the board has a term expiring on January 1, 2007; thereafter, the terms of said seven members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Each trustee following the initial appointments shall hold office for the term for which the trustee is appointed and until the trustee's successor is appointed and confirmed by the senate. Of the seven members appointed by the governor, no more than four shall be from any one political party and no more or less than two shall be residents of southwestern Colorado. The board members from southwestern Colorado shall reside in Archuleta, Dolores, La Plata, Montezuma, or San Juan county.

(3) The eighth office shall be filled by an elected member of the student body of Fort Lewis college who is a full-time junior or senior student at Fort Lewis college. The term of said elected office shall be one year, beginning August 1, 2002, and beginning August 1 each year thereafter. The elected student office shall be advisory, without the right to vote.

(4) The ninth office shall be filled by an elected member of the faculty at large of Fort Lewis college elected by other members of the faculty at large for a term of two years, beginning August 1, 2002, and beginning August 1 each year thereafter. The elected faculty office shall be advisory, without the right to vote.

(5) Any vacancy in the office of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. Any vacancy in either of the elected offices on the board of trustees shall be filled by reelection for the unexpired term. Each trustee shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of the office, which oath shall be placed and kept on file in the office of the secretary of state.

(6) Repealed.

(7) Except as otherwise provided in this subsection (7), the powers, duties, and functions formerly performed by the board of governors of the Colorado state university system with respect to Fort Lewis college are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the board of governors of the Colorado state university system and applicable to Fort Lewis college shall remain in force and effect unless and until changed by the board of trustees.

(8) Repealed.

**Source:** **L. 71:** R&RE, p. 1182, § 1. **C.R.S. 1963:** § 124-14-2. **L. 85:** Entire section R&RE, p. 764, § 10, effective July 1. **L. 98:** Entire section amended, p. 431, § 1, effective August 5. **L. 2002:** Entire section R&RE, p. 1251, § 3, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2003:** (7) amended, p. 1995, § 41, effective May 22. **L. 2006:** (2) amended, p. 1232, § 5, effective May 26.

**Editor's note:** (1) This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2003. (See L. 2002, p. 1251.) Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2003. (See L. 2002, p. 1251.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

### ANNOTATION

**Annotator's note.** The following annotations include a case decided under former provisions similar to this section.

**Land commissioners have exclusive power of disposal over lands under this section.** Sections 9 and 10 of art. IX, Colo. Const., in unmistakable terms describe lands which shall be subject to disposition by the state board of land commissioners as "all lands heretofore or which may hereafter be granted to the state by

the general government", hence lands granted to the state by the United States, to be held and maintained as an institution of learning under this section are lands over which the land commissioners have exclusive powers of disposal, and it is not within the power of the general assembly to place limitations upon the exercise thereof. *Sunray MidContinent Oil Co. v. State*, 149 Colo. 159, 368 P.2d 563 (1962).

### 23-52-103. Board of trustees for Fort Lewis college fund - creation - control - use.

(1) Effective September 1, 2002, there is created in the state treasury the board of trustees for Fort Lewis college fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Fort Lewis college shall be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Fort Lewis college and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund which are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be so invested and shall notify the state treasurer in writing of such amount.

**Source:** L. 71: R&RE, p. 1182, § 1. C.R.S. 1963: § 124-14-3. L. 85: Entire section amended, p. 768, § 22, effective July 1. L. 2002: Entire section R&RE, p. 1253, § 4, effective July 1; entire part amended, p. 1242, § 11, effective August 7.

**Editor's note:** This part 1 was amended in House Bill 02-1260. Those amendments were superseded by the repeal and reenactment of the section in House Bill 02-1419.

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-104. Governing board - powers.** (1) In addition to those powers conferred elsewhere in this part 1, the board of trustees has the power to:

(a) Appoint a president of Fort Lewis college who shall hold the office until removed by the board of trustees or until the president resigns the same;

(b) Appoint such other executive officers of the college as may be required;



(c) Appoint such faculty and employees as the necessities of the college demand;

(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;

(e) Sell, lease, or exchange real property, or any interest therein, as specified in section 23-30-102, the ownership of which is vested in the board of trustees or Fort Lewis college. The board of trustees shall report all proposed sales, leases, or exchanges of such real property adjacent to or titled in Fort Lewis college to the Colorado commission on higher education, which will review and approve or disapprove the proposed transaction pursuant to section 23-1-106.

(2) The board of trustees for Fort Lewis college shall have general supervision of the college and plenary power to enact rules and regulations for the governance of the college.

(3) All real and personal property held by the board of governors of the Colorado state university system for the benefit of Fort Lewis college, including the beneficial interest in the Hesperus property owned by the state board of land commissioners and the Hesperus fund, is hereby transferred to the board of trustees. Such transfer shall not include real or personal property held by the board of governors of the Colorado state university system for its own benefit.

(4) All existing or future debt, liabilities, or obligations of the board of governors of the Colorado state university system incurred or arising with respect to Fort Lewis college, including but not limited to outstanding revenue bond obligations, lease obligations, and debt, shall be the sole responsibility of the board of trustees on and after September 1, 2002, and on and after September 1, 2002, the board of governors of the Colorado state university system shall have no further liability with respect thereto.

(5) The board of governors of the Colorado state university system and the board of trustees shall enter into an intergovernmental agreement providing that:

(a) The board of trustees and the board of governors of the Colorado state university system shall jointly request that the state board of land commissioners extend the existing lease of the Hesperus property to the board of governors of the Colorado state university system for the use and benefit of the Colorado agricultural experiment station beyond its current expiration on the same terms and conditions for a period of not less than ten years. The board of governors of the Colorado state university system shall cooperate with the board of trustees to facilitate the use of portions of the Hesperus property, which is owned by the state board of land commissioners, so long as such uses are compatible and not inconsistent with the use and operation of property by the Colorado agricultural experiment station.

(b) The board of governors of the Colorado state university system shall have the right to use the real property upon which the Colorado state forest service district office is located on the Fort Lewis college main campus for a minimum of twenty-five years;

(c) The board of governors of the Colorado state university system shall prepare appropriate documentation for transfer of all bonded and municipal lease debt related to Fort Lewis college to the board of trustees. All costs associated with such transfer shall be paid by the board of trustees. The board of governors of the Colorado state university system and the board of trustees shall cooperate to obtain any approvals required, satisfy any conditions necessary to accomplish this transfer, and execute all implementing documentation.

(d) (I) The board of governors of the Colorado state university system and the board of trustees shall cooperate to identify and transfer to the board of trustees:

(A) Any local, state, or federal licenses or permits required for the operation of Fort Lewis college held in the name of the board of governors of the Colorado state university system, such as federal communications commission licenses, environmental permits, or liquor licenses; and

(B) Real property records or interests held by the board of governors of the Colorado state university system for the benefit of Fort Lewis college.

(II) The board of trustees shall pay all costs associated with any such transfers.

**Source:** **L. 71:** R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-4. **L. 88:** (1)(c) amended and (1)(e) added, p. 853, § 4, effective April 20. **L. 2002:** Entire section amended, p. 1254, § 7, effective July 1; entire part amended, p. 1242, § 11, effective August 7. **L. 2003:** (3), (4), and (5) amended, p. 1995, § 42, effective May 22.

**Editor's note:** This part 1 was amended in House Bill 02-1260. Those amendments were superseded by amendments of the section in House Bill 02-1419.

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

#### ANNOTATION

**Applied** in *Van Pelt v. State Bd. for Cmty. Colls. & Occupational Educ.*, 195 Colo. 316, 577 P.2d 765 (1978).

#### **23-52-104.5. Powers and duties of the president.**

(1) Repealed.

(2) On and after September 1, 2002, the president of Fort Lewis college shall report directly to the board of trustees.

**Source:** **L. 85:** Entire section added, p. 768, § 23, effective July 1. **L. 2002:** Entire section amended, p. 1256, § 8, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1256.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

#### **23-52-105. Tuition fees - Indians - repeal.**

(1) (a) Repealed.

(b) (I) On and after September 1, 2002, the board of trustees shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for Fort Lewis college pursuant to section 23-1-104 (1) (b) (I), subject to the restriction that all qualified Indian pupils shall at all times be admitted to such college free of charge for tuition and on terms of equality with other pupils. The general assembly shall appropriate from the state general fund one hundred percent of the moneys required for tuition for such qualified Indian pupils.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (b) to the contrary, for fiscal years 2011-12 through 2015-16, the board of trustees, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend Fort Lewis college, subject to the restriction for all qualified Indian pupils as provided in subparagraph (I) of this paragraph (b). This subparagraph (II) is repealed, effective July 1, 2016.

(2) Special programs may also be offered to assist Indian pupils to prepare for, begin, or continue their college education at Fort Lewis college. Indian pupils shall not be charged tuition for such programs. The size of any special programs offered pursuant to this subsection (2) shall be limited by the facilities and revenues available and by the level of appropriations set therefor by the general assembly.

**Source:** **L. 71:** R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-5. **L. 75:** Entire section amended, p. 213, § 36, effective July 16. **L. 85:** (1) amended, p. 768, § 24, effective July 1. **L. 93:** (1) amended, p. 1520, § 29, effective June 6. **L. 2002:** (1) amended, p. 1256,



§ 9, effective July 1; entire part amended, p. 1243, § 11, effective August 7. **L. 2008:** (1)(b) amended, p. 119, § 6, effective March 19. **L. 2010:** (1)(b) amended, (SB 10-003), ch. 391, p. 1844, § 14, effective June 9.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective July 1, 2003. (See L. 2002, p. 1256.)

**Cross references:** (1) For classification of students for tuition purposes, see article 7 of this title.

(2) For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 303, Session Laws of Colorado 2002. For the legislative declaration in the 2010 act amending subsection (1)(b), see section 1 of chapter 391, Session Laws of Colorado 2010.

### **23-52-106. Donations - power to invest.**

(1) Repealed.

(2) On and after September 1, 2002, all donations of money, securities, or other property of whatever kind and wherever situated made to Fort Lewis college shall be held by the board of trustees for the use and benefit of Fort Lewis college, to be expended subject to appropriation by the general assembly or invested in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

**Source:** **L. 71:** R&RE, p. 1183, § 1. **C.R.S. 1963:** § 124-14-6. **L. 2002:** Entire section amended, p. 1257, § 10, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1257.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

### **23-52-107. Board of trustees empowered to lease grounds.**

(1) Repealed.

(2) On and after September 1, 2002, for the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of the college, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of the Fort Lewis college, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to such regulations as it may prescribe and upon the condition that such private persons or corporations shall construct and equip on such leased grounds such buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of such buildings or from their sale to the board of trustees acting for the state.

**Source:** **L. 76:** Entire section added, p. 577, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1257, § 11, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1257.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-108. No authority to obligate state.**

(1) Repealed.

(2) On and after September 1, 2002, nothing in sections 23-52-107 to 23-52-113 shall constitute any authority to enter into any contract which in any way creates any debt or obligation upon the state on account of the construction of such buildings or improvements; but buildings and improvements erected on any such lands under the control of the board of trustees and devoted to the uses of the college under the terms of sections 23-52-107 to 23-52-113 and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

**Source:** **L. 76:** Entire section added, p. 577, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 12, effective July 1; entire part amended, p. 1243, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-109. Buildings - control of.**

(1) Repealed.

(2) On and after September 1, 2002, the management of buildings erected and equipped under the terms of sections 23-52-107 to 23-52-113 and the scale of rentals thereof shall be subject to the approval of the board of trustees.

**Source:** **L. 76:** Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 13, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-110. Board of trustees may rent buildings.**

(1) Repealed.

(2) On and after September 1, 2002, the board of trustees is authorized to lease or rent such buildings constructed under the provisions of sections 23-52-107 to 23-52-113 from the private persons or corporations constructing the same upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of such buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

**Source:** **L. 76:** Entire section amended, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1258, § 14, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1258.)



**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-111. To be state property at lease end.** Upon the termination of any lease or contract executed under the terms of sections 23-52-107 to 23-52-113 providing for the construction and equipment of buildings, such buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of any occupant may be removed.

**Source:** **L. 76:** Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire part amended, p. 1244, § 11, effective August 7.

**23-52-112. Leasehold interest may be sold.**

(1) Repealed.

(2) On and after September 1, 2002, nothing in sections 23-52-107 to 23-52-113 shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

**Source:** **L. 76:** Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1259, § 15, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1259.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-113. Board of trustees may rent rooms.**

(1) Repealed.

(2) On and after September 1, 2002, upon the termination of any lease or contract executed with private persons or corporations for the construction of buildings under the terms of sections 23-52-107 to 23-52-113, the board of trustees is empowered to rent rooms or quarters in buildings erected under such leases or contracts for such reasonable compensation as it deems best in relation to current operation, maintenance, and upkeep costs.

**Source:** **L. 76:** Entire section added, p. 578, § 1, effective April 5. **L. 2002:** Entire section amended, p. 1259, § 16, effective July 1; entire part amended, p. 1244, § 11, effective August 7.

**Editor's note:** (1) Amendments to this section by House Bill 02-1260 and House Bill 02-1419 were harmonized.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2003. (See L. 2002, p. 1259.)

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-114. Hesperus account created.** The proceeds of or income from the property formerly known as the "Fort Lewis school", granted by the United States to the state of Colorado, pursuant to an act of congress approved April 4, 1910 (36 Stat. 274), as modified by an act of congress approved May 18, 1916 (39 Stat. 128), shall constitute a special account, which shall be known as the "Hesperus account". The income from said property and from the Hesperus account shall be appropriated by the general assembly and used by the board of trustees first for tuition waivers at Fort Lewis college for qualified Indian

pupils. Any moneys remaining after such use shall be applied to such public purpose as may be determined by the board of trustees, subject to appropriation by the general assembly.

**Source: L. 2002:** Entire section added with relocations, p. 1254, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-30-114 as it existed prior to 2002.

**Cross references:** For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-115. Development of natural resources.** The state board of land commissioners is authorized to prudently develop such coal measures, mineral deposits, and oil structures by lease or otherwise as is situated on lands described in section 23-52-114, but such development shall not unreasonably interfere with the use of such land as may be directed from time to time by the board of trustees. Applications for leases of the coal measures, mineral deposits, and oil structures shall be made to the state board of land commissioners, which board may execute such leases in the manner required by law. Rental, royalties, and income therefrom shall be deposited with the state treasurer and credited to the special account established by section 23-52-114.

**Source: L. 2002:** Entire section added with relocations, p. 1254, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-30-115 as it existed prior to 2002.

**Cross references:** For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

**23-52-116. Power to invest.** The board of trustees has the power to direct the investment of funds held by the state treasurer pursuant to section 23-52-114 in such securities as are permitted for private trustees and similar fiduciaries under the law of the state of Colorado.

**Source: L. 2002:** Entire section added with relocations, p. 1254, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-30-116 as it existed prior to 2002.

**Cross references:** For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 303, Session Laws of Colorado 2002.

## PART 2

### GRAND JUNCTION SCHOOL

#### 23-52-201 and 23-52-202. (Repealed)

**Source: L. 82:** Entire part repealed, p. 348, § 1, effective March 11.

**Editor's note:** (1) This part 2 was numbered as article 15 of chapter 124, C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1982, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) The provisions of this part 2 concerning the Grand Junction School were repealed in 1982. The following is an historical narrative of the property that was the subject of this part 2: The property originally known as the Grand Junction Indian School was granted to the state for educational purposes by the federal congress in 1910; see 36 Stat. 1910, p. 273. A school of horticulture, forestry, and vocational learning was established there in 1911; see L. 11, p. 145, § 1. In 1916 a change of use was authorized, allowing the state to use the property for the care of the insane, for an agricultural



experiment station, or for other public purposes; see 39 Stat. 1916, p. 128. A state home and training school for mental defectives was then established on the property in 1919; see legislative history of § 27-14-109 prior to its repeal by L. 83, p. 1161, § 23.

ARTICLE 53

Colorado Mesa University

**Editor’s note:** This article was numbered as article 27 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor’s notes following those sections that were relocated.

23-53-101.	University established - role and mission.				rado Mesa university to supervise.
23-53-102.	Board of trustees - creation - members - powers - duties.	23-53-105.			Power to acquire land.
23-53-102.5.	Tuition - repeal.	23-53-106.			Board of trustees empowered to lease grounds.
23-53-103.	Board of trustees for the Colorado Mesa university fund - creation - control - use.	23-53-107.			No authority to obligate state.
		23-53-108.			Buildings - control of.
23-53-103.3.	Investments in consolidated funds.	23-53-109.			Board of trustees may rent buildings.
23-53-103.4.	Corporate stock in name of nominee authorized.	23-53-110.			To be state property at lease end.
23-53-103.6.	Investment policy - fiduciary responsibility.	23-53-111.			Leasehold interest may be sold.
23-53-104.	Board of trustees for Colo-	23-53-112.			Board of trustees may rent rooms.

**23-53-101. University established - role and mission.** There is hereby established a university at Grand Junction, to be known as Colorado Mesa university, which shall be a general baccalaureate and graduate institution with selective admission standards. Colorado Mesa university shall offer liberal arts and sciences, professional, and technical degree programs and a limited number of graduate programs. Colorado Mesa university shall also maintain a community college role and mission, including career and technical education programs. Colorado Mesa university shall receive resident credit for two-year course offerings in its commission-approved service area. Colorado Mesa university shall also serve as a regional education provider.

**Source:** **L. 2003:** Entire article R&RE, p. 780, § 5, effective July 1. **L. 2010:** Entire section amended, (SB 10-079), ch. 153, p. 528, § 1, effective August 11. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1359, § 2, effective August 10. **L. 2012:** Entire section amended, (HB 12-1324), ch. 192, p. 768, § 1, effective May 21.

**Editor’s note:** This section is similar to former § 23-53-101 as it existed prior to 2003.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-102. Board of trustees - creation - members - powers - duties.** (1) (a) There is established the board of trustees for Colorado Mesa university, referred to in this article as the “board of trustees”, which shall consist of thirteen members and shall be the governing authority for Colorado Mesa university. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

- (I) Acquire and hold property for the use of Colorado Mesa university;
- (II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Colorado Mesa university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Colorado Mesa university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who may be members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Colorado Mesa university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, eleven members of the board of trustees. Members appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the eleven appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed; except that of the two members appointed pursuant to House Bill 12-1324, enacted in 2012, one shall have a term that expires on January 1, 2015, and one shall have a term that expires on January 1, 2016. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the eleven members appointed by the governor, no more than six members shall be from the same political party. Of the eleven members appointed by the governor, at least two shall reside in Delta, Garfield, Mesa, or Montrose county. Each trustee shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The twelfth member of the board of trustees shall be a full-time junior or senior student at Colorado Mesa university, elected by the members of the student body of Colorado Mesa university. The term of the student member shall be one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The thirteenth member shall be a member of the faculty of Colorado Mesa university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of the office, which oath shall be placed and kept on file in the office of the secretary of state.

(6) (a) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Mesa state college are hereby transferred to the board of trustees. Policies, resolutions,



procedures, and agreements previously approved by the trustees of the state colleges in Colorado and applicable to Mesa state college shall remain in force and effect unless and until changed by the board of trustees.

(b) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the board of trustees of Mesa state college are hereby transferred to the board of trustees of Colorado Mesa university. Policies, resolutions, procedures, and agreements previously approved by the board of trustees of Mesa state college shall remain in force and effect unless and until changed by the board of trustees of Colorado Mesa university.

(7) In addition to those powers conferred elsewhere in this article, the board of trustees has the power to:

- (a) Appoint a president of Colorado Mesa university;
- (b) Appoint such other executive officers of the university as may be required;
- (c) Appoint faculty and employees as may be required;
- (d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;
- (e) With the advice of the faculty, prescribe the degree programs for the university; and
- (f) Prescribe the student admissions qualifications.

**Source:** **L. 2003:** Entire article R&RE, p. 780, § 5, effective July 1. **L. 2006:** (2) amended, p. 1232, § 6, effective May 26. **L. 2008:** (1)(b) amended, p. 340, § 1, effective April 10. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1359, § 3, effective August 10. **L. 2012:** IP(1)(a), (2), (3), and (4) amended, (HB 12-1324), ch. 192, p. 768, § 2, effective May 21.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-102.5. Tuition - repeal.** (1) For fiscal years 2011-12 through 2015-16, the board of trustees, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend Colorado Mesa university.

(2) This section is repealed, effective July 1, 2016.

**Source:** **L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1844, § 15, effective June 9. **L. 2011:** (1) amended, (SB 11-265), ch. 292, p. 1361, § 4, effective August 10.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending subsection (1), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-103. Board of trustees for the Colorado Mesa university fund - creation - control - use.** (1) There is created in the state treasury the board of trustees for Colorado Mesa university fund, referred to in this section as the “fund”, which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. The board of trustees shall have authority and responsibility for all moneys of the board of trustees and of Colorado Mesa university. The board of trustees shall designate, pursuant to its statutory authority, those moneys received or acquired by the board of trustees or by Colorado Mesa university, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law, that shall be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund under the control of the board of trustees and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Colorado Mesa university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) If the board of trustees votes to invest Colorado Mesa university assets pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall establish an investment advisory committee consisting of at least five members to make recommendations to the board regarding investments. The investment advisory committee, at a minimum, shall include the Colorado Mesa university treasurer, a member of the board, and three representatives from the financial community.

(5) Repealed.

**Source:** **L. 2003:** Entire article R&RE, p. 782, § 5, effective July 1. **L. 2008:** (1) amended and (4) added, p. 340, § 2, effective April 10. **L. 2011:** (1), (2), and (4) amended and (5) added, (SB 11-265), ch. 292, p. 1361, § 5, effective August 10.

**Editor's note:** Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2012. (See L. 2011, p. 1361.)

**Cross references:** For the legislative declaration in the 2011 act amending subsections (1), (2), and (4) and adding subsection (5), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-103.3. Investments in consolidated funds.** Unless otherwise restrained by the terms of a will, trust agreement, or other instrument of gift, the board of trustees is authorized to hold investments in one or more consolidated investment funds in which the participating trusts or accounts have undivided interests.

**Source:** **L. 2008:** Entire section added, p. 341, § 3, effective April 10.

**23-53-103.4. Corporate stock in name of nominee authorized.** (1) In order to facilitate the investment, reinvestment, sale, and disposition of corporate stocks, the board of trustees is authorized to hold certificates of stock in the name of a nominee of its selection without disclosing the fact that the certificates are held by the board of trustees or are held in a fiduciary capacity if:

(a) The records of the board and all reports or accounts rendered by it clearly show the ownership of the stock by the board and the facts regarding the board's holding; and

(b) The nominee deposits with the board a signed statement showing the trust ownership, endorses the stock certificate in blank, and does not have possession of or access to the stock certificate except under the immediate supervision of the treasurer of Colorado Mesa university or another person that the board of trustees has designated.

(2) The board of trustees shall maintain a list of certificates of stock held in the names of nominees pursuant to this section and shall make the list available for public inspection during normal business hours.

(3) The board of trustees shall report to the joint budget committee of the general assembly at each regular session regarding the investments made and the earnings or losses derived therefrom under the provisions of this section and section 23-53-103.3. The report shall include information indicating the extent to which the investment managers hired by the board of trustees have achieved or failed to achieve the performance benchmarks established pursuant to section 23-53-103.6 (1) (b).

**Source:** **L. 2008:** Entire section added, p. 341, § 3, effective April 10. **L. 2011:** (1)(b) amended, (SB 11-265), ch. 292, p. 1362, § 6, effective August 10.



**Cross references:** For the legislative declaration in the 2011 act amending subsection (1)(b), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-103.6. Investment policy - fiduciary responsibility.** (1) If the board of trustees votes to invest Colorado Mesa university's assets pursuant to sections 23-53-103.3 and 23-53-103.4, then the board of trustees shall develop and annually review a written investment policy for Colorado Mesa university, which policy shall include:

(a) An acknowledgment by the board of trustees of the board's fiduciary responsibility with respect to oversight of the investment policy of Colorado Mesa university; and

(b) The establishment of performance benchmarks for each investment manager hired by the board of trustees pursuant to sections 23-53-103.3 and 23-53-103.4.

(2) In selecting investment managers for the purposes of this section, the board of trustees shall use an open and competitive process.

(3) If the board of trustees votes to invest moneys pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall require annual financial statements to be submitted to the board of trustees, the state treasurer, the state auditor, and the joint budget committee of the general assembly. The financial statements shall include, at a minimum, information concerning investment income, gains, and losses, if any, of Colorado Mesa university. The financial statements shall report the performance of investments on both a gross-of-fee and a net-of-fee basis.

(4) If the board of trustees votes to invest moneys pursuant to sections 23-53-103.3 and 23-53-103.4, the board shall ensure that, at all times, liquid investment assets remain at a level sufficient to pay for all budgeted, outstanding operational obligations and expenses occurring within the current fiscal year.

(5) Colorado Mesa university shall not request from the general assembly any general fund appropriations to replace any losses incurred due to investment activities conducted by the board of trustees pursuant to sections 23-53-103.3 and 23-53-103.4.

**Source:** **L. 2008:** Entire section added, p. 342, § 3, effective April 10. **L. 2011:** IP(1), (1)(a), (3), and (5) amended, (SB 11-265), ch. 292, p. 1363, § 7, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsections (1)(a), (3), and (5), see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-104. Board of trustees for Colorado Mesa university to supervise.** The board of trustees shall have general supervision of Colorado Mesa university and the control and direction of the funds and appropriations made thereto, and the board of trustees shall have power to receive, demand, and hold for the uses and purposes of the university all money, lands, and other property which may be donated, devised, or conveyed thereto and to apply the same in such manner as shall best serve the university's objects and interests.

**Source:** **L. 2003:** Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1363, § 8, effective August 10.

**Editor's note:** This section is similar to former § 23-53-106 as it existed prior to 2003.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-105. Power to acquire land.** The board of trustees shall also have power to take and hold, by gift, devise, or purchase or through exercise of the power of eminent domain pursuant to law, so much additional land as may become necessary for the location and construction of such additional buildings, structures, and other facilities as may be required for the uses and purposes of Colorado Mesa university from funds appropriated by the general assembly.

**Source:** **L. 2003:** Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1363, § 9, effective August 10.

**Editor's note:** This section is similar to former § 23-53-107 as it existed prior to 2003.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-106. Board of trustees empowered to lease grounds.** For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of Colorado Mesa university, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of Colorado Mesa university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years, subject to regulations as the board may prescribe and upon the condition that private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves, reimbursement for money invested therein to be secured from the rentals of the buildings or from their sale to the board of trustees acting for the state.

**Source:** **L. 2003:** Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1364, § 10, effective August 10.

**Editor's note:** This section is similar to former § 23-53-108 as it existed prior to 2003.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-107. No authority to obligate state.** Nothing in this article shall constitute authority to enter into a contract which in any way creates any debt or obligation upon the state on account of the construction of buildings or improvements; but buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Colorado Mesa university under the terms of this article and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

**Source:** **L. 2003:** Entire article R&RE, p. 783, § 5, effective July 1. **L. 2011:** Entire section amended, (SB 11-265), ch. 292, p. 1364, § 11, effective August 10.

**Editor's note:** This section is similar to former § 23-53-109 as it existed prior to 2003.

**Cross references:** For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 292, Session Laws of Colorado 2011.

**23-53-108. Buildings - control of.** The management of buildings erected and equipped under the terms of this article and the scale of rentals thereof shall be subject to the approval of the board of trustees.

**Source:** **L. 2003:** Entire article R&RE, p. 784, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-53-110 as it existed prior to 2003.

**23-53-109. Board of trustees may rent buildings.** The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as the board deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control available for general maintenance purposes.



**Source: L. 2003:** Entire article R&RE, p. 784, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-53-111 as it existed prior to 2003.

**23-53-110. To be state property at lease end.** Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

**Source: L. 2003:** Entire article R&RE, p. 784, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-53-112 as it existed prior to 2003.

**23-53-111. Leasehold interest may be sold.** Nothing in this article shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

**Source: L. 2003:** Entire article R&RE, p. 784, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-53-113 as it existed prior to 2003.

**23-53-112. Board of trustees may rent rooms.** Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under leases or contracts for reasonable compensation as the board deems best in relation to current operation, maintenance, and upkeep costs.

**Source: L. 2003:** Entire article R&RE, p. 784, § 5, effective July 1.

**Editor's note:** This section is similar to former § 23-53-114 as it existed prior to 2003.

## ARTICLE 54

### Metropolitan State University of Denver

**Editor's note:** This article was numbered as article 19 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2002, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2002, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Cross references:** For the legislative declaration contained in the 2002 act repealing and reenacting this article, see section 1 of chapter 307, Session Laws of Colorado 2002.

23-54-101.	University established - role and mission - governance.	23-54-104.	Denver fund - creation - control - use.
23-54-102.	Board of trustees - creation - members - powers - duties.		The Metropolitan state university of Denver undergraduate enrichment fund - created - awards.
23-54-102.5.	Tuition - repeal.		
23-54-103.	Board of trustees for Metropolitan state university of		

**23-54-101. University established - role and mission - governance.** There is hereby established a university at Denver, to be known as Metropolitan state university of Denver.

which shall be a comprehensive institution with modified open admission standards at the baccalaureate level; except that nontraditional students at the baccalaureate level who are at least twenty years of age shall only have as an admission requirement a high school diploma, a GED high school equivalency certificate, or the equivalent thereof. Metropolitan state university of Denver shall offer a variety of liberal arts and science, technical, and educational programs. The university may offer a limited number of professional programs. In furtherance of its role and mission, Metropolitan state university of Denver may offer master's degree programs that address the needs of its urban service area.

**Source:** L. 2002: Entire article R&RE, p. 1276, § 2, effective July 1. L. 2009: Entire section amended, (HB 09-1295), ch. 233, p. 1069, § 1, effective August 5. L. 2012: Entire section amended, (SB 12-148), ch. 125, p. 422, § 2, effective July 1.

**Editor's note:** This section is similar to former § 23-54-101 as it existed prior to 2002.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-54-102. Board of trustees - creation - members - powers - duties.** (1) (a) Effective July 1, 2002, there is established the board of trustees for Metropolitan state university of Denver, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Metropolitan state university of Denver. The board of trustees created by this subsection (1) shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire, by purchase or lease, and hold property for the use of Metropolitan state university of Denver, develop and construct facilities upon the property, and dispose of the property, leasehold interests, and facilities; except that the board of trustees shall have the authority to dispose of a leasehold interest in property owned by the Auraria higher education center only to a constituent institution, as specified in section 23-70-101 (1) (b), or in connection with a sale and leaseback or other form of transaction in which Metropolitan state university of Denver will remain the ultimate user of the property;

(II) Be a party to all suits and contracts;

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Metropolitan state university of Denver such money, lands, or other property as may be donated or devised to or for the university;

(IV) Without limiting the scope of any other authority, authorize, by resolution, revenue bonds and enter into other lawful financial transactions for the purpose of raising moneys for constructing or otherwise acquiring and equipping any facility or facilities necessary or useful to the accomplishment of the mission of Metropolitan state university of Denver; and

(V) Transfer, assign, or pledge portions of its student fees, auxiliary revenues, capital facilities fees, and up to ten percent of tuition moneys to the Auraria higher education center to provide a source of repayment for revenue bonds or other loans or financial obligations incurred by the center to finance construction of an auxiliary facility, as defined in section 23-5-101.5 (2) (a), a complementary facility, as defined in section 23-70-105.5 (1), any other facility necessary or useful to the accomplishment of the mission of Metropolitan state university of Denver, or the infrastructure necessary to support any of the types of facilities specified in this subparagraph (V).

(a.5) Nothing in this article shall authorize the board of trustees to enter into a contract for the construction of buildings or improvements that creates any debt or obligation upon the state. Buildings and improvements erected on lands controlled by the board of trustees and intended for the use of Metropolitan state university of Denver under the terms of this article and any leasehold interests shall be exempt from taxation as permitted by the state constitution.

(b) The trustees and their successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and government of Metropolitan



state university of Denver, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Metropolitan state university of Denver shall provide staff support for the board of trustees.

(2) The governor shall appoint, with the consent of the senate, nine members of the board of trustees. The members first appointed to said board shall take office on July 1, 2002. The terms of appointed members of the board of trustees shall be four years; except that, of the members first appointed, the governor shall select two members who shall serve one-year terms, two members who shall serve two-year terms, and five members who shall serve four-year terms. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. All appointed members shall serve until their successors are appointed and qualified. Of the nine members appointed by the governor, no more than five members shall be from the same political party.

(3) A full-time junior or senior student at Metropolitan state university of Denver, elected by the student body at large, shall fill the tenth office as a member of the board of trustees. The term of office shall be one year, beginning July 1, 2002, and beginning July 1 each year thereafter. The elected student office shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The elected student member of the board of trustees shall have resided in the state of Colorado not fewer than three years immediately prior to election. As used in this subsection (3), "full-time student" shall have the same definition as "full-time equivalent student" used by the joint budget committee of the general assembly.

(4) A full-time member of the teaching faculty at large of Metropolitan state university of Denver, elected by the faculty at large, shall fill the eleventh office as a member of the board of trustees. The term of office shall be one year, beginning July 1, 2002, and beginning July 1 each year thereafter. The elected faculty member of the board of trustees shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) Any vacancy in the office of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. Any vacancy in either of the elected offices on the board of trustees shall be filled by reelection for the unexpired term. Each trustee shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of the office, which oath shall be placed and kept on file in the office of the secretary of state.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado, as said governing board existed prior to July 1, 2003, with respect to Metropolitan state university of Denver are hereby transferred to the board of trustees. Policies, procedures, and agreements previously approved by the trustees of the state colleges, as the governing board existed prior to July 1, 2003, and applicable to Metropolitan state university of Denver shall remain in force and effect unless and until changed by the board of trustees.

**Source:** **L. 2002:** Entire article R&RE, p. 1276, § 2, effective July 1. **L. 2003:** (1)(a), (2), (3), and (4) amended, p. 2595, § 4, effective July 1; (1)(b) and (6) amended, p. 790, § 11, effective July 1. **L. 2006:** (2) amended, p. 1233, § 7, effective May 26. **L. 2008:** (1)(a) amended and (1)(a.5) added, p. 1077, § 1, effective May 22. **L. 2012:** (1), (3), (4), and (6) amended, (SB 12-148), ch. 125, p. 422, § 3, effective July 1.

**Editor's note:** This section is similar to former § 23-54-102 as it existed prior to 2002.

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1), (3), (4), and (6), see section 1 of chapter 125, Session Laws of Colorado 2012.

### ANNOTATION

**To the extent certain tenure provisions in the 1994 Colorado handbook for professional personnel afforded professors vested rights, the board did not have statutory or contractual authority** subsequently to unilaterally modify those provisions or dismiss professors. *Saxe v. Bd. of Trs. of Metro. State Coll.*, 179 P.3d 67 (Colo. App. 2007).

**Changes to personnel handbook dealing with priority of layoffs of tenured faculty and their relocation within the institution constituted substantive changes** and were therefore unconstitutionally retrospective. Although an employer reserves the right to modify its em-

ployment handbook, there are limits if the modifications constitute changes that affect employees retrospectively and substantively. *Saxe v. Bd. of Trs. of Metro. State Coll.*, 179 P.3d 67 (Colo. App. 2007).

**Changes to personnel handbook dealing with standards, access to information, and written explanation of termination decisions, however, constituted mere procedural changes** and were therefore constitutional even though retrospective. *Saxe v. Bd. of Trs. of Metro. State Coll.*, 179 P.3d 67 (Colo. App. 2007).

**23-54-102.5. Tuition - repeal.** (1) For fiscal years 2011-12 through 2015-16, the board of trustees, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend Metropolitan state university of Denver.

(2) This section is repealed, effective July 1, 2016.

**Source:** L. 2010: Entire section added, (SB 10-003), ch. 391, p. 1844, § 16, effective June 9. L. 2012: (1) amended, (SB 12-148), ch. 125, p. 424, § 4, effective July 1.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsection (1), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-54-103. Board of trustees for Metropolitan state university of Denver fund - creation - control - use - repeal.** (1) Effective July 1, 2012, there is created in the state treasury the board of trustees for Metropolitan state university of Denver fund, referred to in this section as the "fund", which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Metropolitan state university of Denver shall be deposited in the fund, whether received by appropriation, grant, contract, or gift, or by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Metropolitan state university of Denver and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund which are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be so invested and shall notify the state treasurer in writing of such amount.

(4) (a) All unexpended and unencumbered moneys remaining in the board of trustees of Metropolitan state college of Denver fund as of July 1, 2012, shall be transferred to the board of trustees for Metropolitan state university of Denver fund.

(b) This subsection (4) is repealed, effective July 1, 2013.



**Source:** **L. 2002:** Entire article R&RE, p. 1277, § 2, effective July 1. **L. 2012:** (1) and (2) amended and (4) added, (SB 12-148), ch. 125, p. 424, § 5, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1) and (2) and adding (4), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-54-104. The Metropolitan state university of Denver undergraduate enrichment fund - created - awards.** (1) Effective July 1, 2012, all unexpended and unencumbered moneys in the Metropolitan state college of Denver undergraduate enrichment fund as of July 1, 2012, shall be transferred to the Metropolitan state university of Denver undergraduate enrichment fund, which fund is hereby created in the department of higher education and is referred to in this section as the “enrichment fund”. The enrichment fund shall be under the control of and administered by the board of trustees of Metropolitan state university of Denver. Any moneys credited to the enrichment fund shall remain in the enrichment fund and shall not revert to the general fund at the end of any fiscal year. Such moneys in the enrichment fund may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. Any interest earned on the moneys in the enrichment fund is hereby continuously appropriated for the purposes stated in subsection (2) of this section.

(2) Interest earned on moneys in the enrichment fund shall be used to fund programs to advance and enrich undergraduate education at Metropolitan state university of Denver. Awards for such purposes shall be granted by the board of trustees within one year after the date any moneys are credited to the fund and shall be annually granted thereafter. The board of trustees shall promulgate rules establishing the criteria to be used in granting such annual awards.

**Source:** **L. 2002:** Entire article R&RE, p. 1278, § 2, effective July 1. **L. 2003:** (1) amended, p. 792, § 16, effective July 1. **L. 2012:** Entire section amended, (SB 12-148), ch. 125, p. 425, § 6, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 125, Session Laws of Colorado 2012.

## ARTICLE 55

### Colorado State University - Pueblo

#### **23-55-101 to 23-55-108. (Repealed)**

**Source:** **L. 2007:** Entire article repealed, p. 550, §§ 7, 8, effective August 3.

**Editor’s note:** This article was numbered as article 17 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to article 31.5 of this title. For the location of specific provisions, see the editor’s notes following each section in said article and the comparative tables located in the back of the index.

## ARTICLE 56

### Western State Colorado University

**Editor’s note:** This article was numbered as article 7 of chapter 124, C.R.S. 1963. The provisions of this article were repealed and reenacted in 2003, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and

supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

23-56-101.	University established - role and mission.	23-56-106.	to lease grounds.
23-56-102.	Board of trustees - creation - members - powers - duties.	23-56-107.	No authority to obligate state.
23-56-102.5.	Tuition - repeal.	23-56-108.	Buildings - control of.
23-56-103.	Board of trustees for Western state Colorado university fund - creation - control - use - repeal.		Board of trustees may rent buildings.
		23-56-109.	To be state property at lease end.
23-56-104.	Status and control.	23-56-110.	Leasehold interest may be sold.
23-56-105.	Board of trustees empowered	23-56-111.	Board of trustees may rent rooms.

**23-56-101. University established - role and mission.** There is hereby established a university at Gunnison, which shall be known as Western state Colorado university. Western state Colorado university shall be a general baccalaureate institution with moderately selective admission standards. Western state Colorado university shall offer undergraduate liberal arts and sciences, teacher preparation, and business degree programs and a limited number of graduate programs. Western state Colorado university shall also serve as a regional education provider.

**Source:** **L. 2003:** Entire article R&RE, p. 784, § 6, effective July 1. **L. 2007:** Entire section amended, p. 43, § 1, effective March 9. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1265, § 1, effective August 1.

**Editor's note:** This section is similar to former § 23-56-101 as it existed prior to 2003.

**23-56-102. Board of trustees - creation - members - powers - duties.** (1) (a) There is established the board of trustees for Western state Colorado university, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Western state Colorado university. The board of trustees shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

- (I) Acquire and hold property for the use of Western state Colorado university;
- (II) Be a party to all suits and contracts; and
- (III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Western state Colorado university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors shall have perpetual succession, shall have a seal, may make bylaws and regulations for the well-ordering and governance of Western state Colorado university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities shall be prescribed in the duly adopted bylaws of the board of trustees. The staff of Western state Colorado university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, nine members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the



board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the nine appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the nine members appointed by the governor, no more than five members shall be from the same political party. Of the nine members appointed by the governor, at least two shall reside in Gunnison county. Each trustee following the initial appointments shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The tenth member of the board of trustees shall be a full-time junior or senior student at Western state Colorado university, elected by the members of the student body of Western state Colorado university. The term of the student member shall be one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.

(4) The eleventh member shall be a member of the faculty of Western state Colorado university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member shall be advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24-6-402, C.R.S.

(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of the office, which oath shall be placed and kept on file in the office of the secretary of state.

(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Western state Colorado university are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges in Colorado and applicable to Western state Colorado university shall remain in force and effect unless and until changed by the board of trustees.

(7) In addition to those powers conferred elsewhere in this article, the board of trustees has the power to:

- (a) Appoint a president of Western state Colorado university;
- (b) Appoint such other executive officers of the university as may be required;
- (c) Appoint faculty and employees as may be required;
- (d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;
- (e) With the advice of the faculty, prescribe the degree programs for the university; and
- (f) Prescribe the student admissions qualifications.

**Source:** **L. 2003:** Entire article R&RE, p. 785, § 6, effective July 1. **L. 2006:** (2) amended, p. 1233, § 8, effective May 26. **L. 2012:** (1), (3), (4), (6), and (7) amended, (HB 12-1331), ch. 254, p. 1265, § 2, effective August 1.

**23-56-102.5. Tuition - repeal.** (1) For fiscal years 2011-12 through 2015-16, the board of trustees, in accordance with section 23-5-130.5, shall annually set the amount of

tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend Western state Colorado university.

(2) This section is repealed, effective July 1, 2016.

**Source: L. 2010:** Entire section added, (SB 10-003), ch. 391, p. 1845, § 17, effective June 9. **L. 2012:** (1) amended, (HB 12-1331), ch. 254, p. 1267, § 3, effective August 1.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 391, Session Laws of Colorado 2010.

**23-56-103. Board of trustees for Western state Colorado university fund - creation - control - use - repeal.** (1) There is created in the state treasury the board of trustees for Western state Colorado university fund, referred to in this section as the “fund”, which shall be under the control of and administered by the board of trustees in accordance with the provisions of this article. Except as otherwise allowed by state law, including but not limited to section 24-36-103 (2), C.R.S., all moneys received or acquired by the board of trustees or by Western state Colorado university shall be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board of trustees and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.

(2) The moneys in the fund shall remain under the control of the board of trustees and shall be used for the payment of salaries and operating expenses of the board of trustees and of Western state Colorado university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.

(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.

(4) (a) All unexpended and unencumbered moneys remaining in the board of trustees for Western state college of Colorado fund as of August 7, 2012, shall be transferred to the board of trustees for Western state Colorado university fund.

(b) This subsection (4) is repealed, effective July 1, 2013.

**Source: L. 2003:** Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** (1) and (2) amended and (4) added, (HB 12-1331), ch. 254, p. 1267, § 4, effective August 1.

**23-56-104. Status and control.** The buildings and premises of the Western state Colorado university shall form a part of the school system of the state and shall be controlled and managed by the board of trustees.

**Source: L. 2003:** Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 5, effective August 1.

**Editor’s note:** This section is similar to former § 23-56-102 as it existed prior to 2003.

**23-56-105. Board of trustees empowered to lease grounds.** For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of Western state Colorado university, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of the Western state Colorado university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to regulations as it may prescribe, and upon the condition that the private persons or corporations shall construct and equip on the leased grounds buildings or improvements



as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of the buildings or from their sale to the board of trustees acting for the state.

**Source: L. 2003:** Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 6, effective August 1.

**Editor's note:** This section is similar to former § 23-56-103 as it existed prior to 2003.

**23-56-106. No authority to obligate state.** Nothing in this article shall constitute authority to enter into a contract which in any way creates a debt or obligation upon the state on account of the construction of buildings or improvements; but buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Western state Colorado university under the terms of this article and the leasehold interest shall be exempt from taxation so far as permitted by the state constitution.

**Source: L. 2003:** Entire article R&RE, p. 787, § 6, effective July 1. **L. 2012:** Entire section amended, (HB 12-1331), ch. 254, p. 1268, § 7, effective August 1.

**Editor's note:** This section is similar to former § 23-56-104 as it existed prior to 2003.

**23-56-107. Buildings - control of.** The management of buildings erected and equipped under the terms of this article and the scale of rentals thereof shall be subject to the approval of the board of trustees.

**Source: L. 2003:** Entire article R&RE, p. 788, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-56-105 as it existed prior to 2003.

**23-56-108. Board of trustees may rent buildings.** The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

**Source: L. 2003:** Entire article R&RE, p. 788, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-56-106 as it existed prior to 2003.

**23-56-109. To be state property at lease end.** Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

**Source: L. 2003:** Entire article R&RE, p. 788, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-56-107 as it existed prior to 2003.

**23-56-110. Leasehold interest may be sold.** Nothing in this article shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

**Source: L. 2003:** Entire article R&RE, p. 788, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-56-108 as it existed prior to 2003.

**23-56-111. Board of trustees may rent rooms.** Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under leases or contracts for reasonable compensation as the board deems best in relation to current operation, maintenance, and upkeep costs.

**Source: L. 2003:** Entire article R&RE, p. 788, § 6, effective July 1.

**Editor's note:** This section is similar to former § 23-56-109 as it existed prior to 2003.

## COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

### ARTICLE 60

#### Community Colleges and Occupational Education

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PRIVATE OCCUPATIONAL SCHOOL DIVISION				
23-60-701.	Legislative declaration.			
PART 1				
GENERAL PROVISIONS - STATE BOARD				

**23-60-101. Short title.** This article shall be known and may be cited as the “Community College and Occupational Education Act of 1967”.

**Source:** L. 67: p. 437, § 1. C.R.S. 1963: § 124-26-1.

**23-60-102. Legislative declaration.** (1) The general assembly hereby finds and declares that the state board for community colleges and occupational education is charged to develop and establish state policy for occupational education and to govern the state system of community colleges. The board shall be responsible for the establishment of statewide vocational education policy for all the entities which provide that education and shall coordinate all aspects of vocational education in the state to assure quality programming and efficient delivery of such education.

(2) In its role as the governing authority for the state system of community colleges, the board shall assure a system of two-year program delivery throughout the state coordinated, where appropriate, with the local district colleges. In order to assist the board in carrying out its responsibilities, the general assembly hereby provides for the establishment of local councils to advise the board on the operation of individual community and junior colleges from a local perspective.

(3) The function of the two-year college system is to conduct occupational, technical, and community service programs with no term limitations and general education, including college transfer programs with unrestricted admissions. It is further the intent of this article to develop appropriate occupational education and adult education programs in these and other postsecondary educational institutions, to maintain and expand occupational education programs in the elementary and secondary schools of the state permitting local school districts already having vocational schools to continue to operate them, and to develop work study and on-the-job training programs designed to acquaint youth with the world of work and to train and retrain youth and adults for employment. The general assembly intends that state agencies concerned with occupational education in the public schools shall cooperate with the board in planning and implementing occupational education programs, to the end that the state of Colorado has complete and well-balanced occupational and adult education programs available to the people of Colorado at all educational levels.

**Source:** **L. 67:** p. 437, § 2. **C.R.S. 1963:** § 124-26-2. **L. 86:** Entire section R&RE, p. 837, § 1, effective April 14.

**23-60-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) “Area vocational school” means a school offering approved postsecondary vocational programs for credit, operated by a local school district or by a board of cooperative services, and designated by the general assembly as an area vocational school in conformity with standards established by the state board for community colleges and occupational education. Tuition rates and fees charged any person not enrolled in a secondary school curriculum shall be uniform for any group classification. For the purposes of this article, the following schools, as named in this subsection (1) or as their names may be changed pursuant to section 23-60-801, are declared to be area vocational schools: The Emily Griffith opportunity school, the Delta-Montrose area vocational school, and the Aurora tech center.

(2) “Occupational education” means any education designed to facilitate the vocational, technical, or occupational development of individual persons, including, but not limited to, vocational or technical training or retraining which is given in schools or classes, including field or laboratory work incident thereto, under public supervision and control or under contract with the board or a local educational agency and which is conducted as a part of a program designed to fit individuals for gainful employment as semiskilled or skilled workers or technicians in recognized occupations, but excluding any program to fit individuals for employment in occupations generally considered to be professional or which require a baccalaureate or higher degree. The term further includes vocational guidance and counseling in connection with such training; instruction related to the occupation for which the person is being trained or necessary for him to benefit from such training; and the training of persons engaged as or preparing to become vocational education teachers, teacher-trainers, supervisors, and directors.

(3) “Postsecondary” means related to instruction of students over the age of seventeen years who are not enrolled in a regular program of kindergarten through grade twelve in a public, independent, or parochial school.

(4) A “registered elector” of a district means any person who is at least eighteen years of age, who is a citizen of the United States, who has resided in the state for thirty-two days, in the junior college district thirty-two days, and in the dissolution election precinct thirty-two days immediately preceding the election, and who is duly registered.

(5) “Workplace literacy program” means any program of remedial education in basic mathematics or literacy skills sponsored by one or more private employers and offered for the benefit of employees and conducted in the workplace.

**Source:** **L. 67:** p. 438, § 3. **C.R.S. 1963:** § 124-26-3. **L. 70:** p. 347, § 7. **L. 71:** p. 564, § 49. **L. 72:** p. 316, § 46. **L. 73:** p. 1337, § 2. **L. 74:** (4) amended, p. 420, § 70, effective April 11; (1) amended, p. 389, § 1, effective May 1. **L. 79:** (1) amended, p. 789, § 2, effective July 1. **L. 88:** (5) added, p. 867, § 2, effective July 1. **L. 95:** (1) amended, p. 198, § 10, effective April 13. **L. 2004:** (1) amended, p. 929, § 1, effective August 4. **L. 2006:** (3) amended, p. 1214, § 10, effective July 1, 2007. **L. 2009:** (1) amended, (SB 09-043), ch. 284, p. 1294, § 3, effective May 20.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (3), see section 1 of chapter 265, Session Laws of Colorado 2006. For the legislative declaration contained in the 2009 act amending subsection (1), see section 1 of chapter 284, Session Laws of Colorado 2009.

**23-60-104. State board for community colleges and occupational education - student advisory council - state advisory council.** (1) (a) The state board for community colleges and occupational education is abolished, and the terms of members of the board serving as such immediately prior to April 14, 1986, are terminated.

(b) There is created a state board for community colleges and occupational education, which is referred to in this article as the “board”. The board is a body corporate and has



the authority to adopt a seal and to receive, demand, and hold for all occupational education purposes and for any educational institution under its jurisdiction such money, lands, or other property as may be donated, bequeathed, appropriated, or otherwise made available to the board, and it may use such property in the interests of community and technical colleges and occupational education in this state.

(2) (a) (I) The board shall consist of eleven members, nine of whom shall be appointed by the governor with the consent of the senate. The board shall appoint a director of occupational education and a director of community and technical colleges with the qualifications and background specified by the board. Within thirty days of April 14, 1986, the governor shall appoint the initial members of the board. An initial appointee shall be authorized to act as a duly confirmed member of the board until such time as the senate has acted on such appointment. The governor may appoint, as a member of the board, any person who was a member of the board prior to its termination. No appointed member shall be an employee of any junior college, community or technical college, school district or agency receiving vocational funds allocated by the board, private institution of higher education, or state or private occupational school in the state. No appointed member shall be an elected or appointed statewide official of the state of Colorado or member of the governing board of any state-supported institution of higher education. The board shall at no time have more than five appointed members of any one political party. The board shall at all times have one member from each congressional district in the state. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in paragraph (c) of this subsection (2). Members of the board shall be appointed so as to insure that all geographic areas of the state are represented. A state student advisory council of student members who are enrolled for a minimum of nine hours shall be elected, one each, from and by the student bodies of each of the campuses governed by the board.

(II) The tenth member shall be a student at a college of a state system of community colleges, and the eleventh member shall be a member of the faculty of a college of the state system of community colleges. Such members shall be elected in accordance with procedures established by the board, which procedures shall take into account all the colleges within the state system of community colleges. The term of said offices shall be one year. Said offices shall be advisory, without the right to vote, and shall be without the right to attend executive sessions.

(b) Of the members first appointed to the board, two members representing a congressional district shall be appointed for a term expiring July 1, 1987; one member representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1988; one member representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1989; and two members representing a congressional district and one at-large member shall be appointed for a term expiring July 1, 1990. Thereafter, all members shall be appointed for terms of four years each; except that a member of the board who is appointed by the governor shall continue to serve until a successor is appointed and confirmed by the senate. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. The terms of the offices of members of the state student advisory council shall be one year, beginning July 1, 1977, and any such student member shall be classified as an in-state student for tuition purposes in accordance with section 23-7-102 (5) prior to election to the state student advisory council. No member appointed to the board shall serve for more than two consecutive full four-year terms. Members of the board shall receive fifty dollars per diem for attendance at official meetings, plus actual and necessary expenses incurred in the conduct of official business.

(c) Any vacancy in the office of any member of the board appointed by the governor shall be filled by appointment of the governor with the consent of the senate for the unexpired term. Any vacancy on the state student advisory council shall be filled for the unexpired term by appointment by the duly elected student government of the affected campus within thirty days after such vacancy occurs.

(3) Repealed.

(4) The board shall appoint an executive officer of the board, who shall serve at the pleasure of the board and shall receive compensation commensurate with his duties as determined by the board. Offices held by the executive officer and professional personnel are declared to be educational in nature and not under the state personnel system.

**Source:** L. 67: p. 438, § 4. C.R.S. 1963: § 124-26-4. L. 71: p. 1305, § 7. L. 72: p. 552, § 19. L. 73: p. 1335, § 1. L. 75: (2) amended, p. 741, § 8, effective January 1, 1976; (2)(a) amended, p. 509, § 2, effective January 1, 1976. L. 77: (2) amended, p. 1126, § 1, effective July 1. L. 78: (2)(a) amended, p. 383, § 1, effective March 17; (3) amended, p. 385, § 1, effective April 4. L. 79: (2)(a) amended, p. 1637, § 36, effective July 19. L. 81: (2)(a) amended, p. 852, § 29, effective July 1. L. 82: (2)(a) and (2)(b) amended, p. 353, § 10, effective April 30. L. 85: (2)(a) amended, p. 769, § 27, effective July 1. L. 86: (3) amended, p. 415, § 26, effective March 26; entire section amended, p. 838, § 2, effective April 14. L. 91: (3) amended, p. 695, § 10, effective April 20; (2)(b) amended, p. 900, § 40, effective June 5. L. 97: (3) repealed, p. 1093, § 1, effective May 27. L. 2001: (2)(a)(I) amended, p. 146, § 2, effective March 23. L. 2006: (2)(b) amended, p. 1234, § 9, effective May 26.

**Editor's note:** (1) Amendments to subsection (2) in Senate Bill 75-384 and House Bill 75-1232 were harmonized.

(2) Subsection (3) was amended in House Bill 86-1101. Those amendments were superseded by the amendment of the entire section in House Bill 86-1237.

## ANNOTATION

**The authority of a state created agency must be found in the statute creating the same.** Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls., 173 Colo. 39, 476 P.2d 38 (1970).

**Where no constitutional or legislative authority, express or implied, is to be found conferring an appointive power upon the governor or authority upon the state board to act on behalf of the federal government as a "state approving agency" for approval or non-approval of courses offered to veterans, in the absence of enabling act conferring such power and authority upon the governor and the state board, the actions of the governor and the state board was a nullity.** Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls., 173 Colo. 39, 476 P.2d 38 (1970).

**Any laws and regulations that would operate in contravention of the constitutional underpinnings of the state board for community colleges and occupational education and the state land board and their constitutionally and statutorily conferred duties and powers must necessarily evidence a "clear and unmistakable" intent on the part of the general assembly to repeal the conflicting special statutory and constitutional provisions.** City of Littleton v. State, 832 P.2d 985 (Colo. App. 1991).

If the laws and regulations have an impact on the lands held by the state land board, the legislative scheme must neither create a body with authority equivalent to that vested in the board nor create a situation which results in the diversion of revenues from the public school funds. City of Littleton v. State, 832 P.2d 985 (Colo. App. 1991).

**The state board for community colleges and occupational education is by definition a state agency,** not a "person" under a 42 U.S.C. § 1983 action, and no action for damages may be maintained against it under that statute. Nat'l Camera, Inc. v. Sanchez, 832 P.2d 960 (Colo. App. 1991).

**The state board for community colleges and occupational education is an instrumentality of the state,** far more akin to state universities and their governing bodies than to municipalities and local school boards. Therefore, the board enjoys eleventh amendment immunity as an instrumentality or arm of the state of Colorado. Sturdevant v. Paulsen, 218 F.3d 1160 (10th Cir. 2000).

**Trial court erred in dismissing 42 U.S.C. § 1983 claim against the members of the state board for community colleges and occupational education since the availability of ju-**



dicial review pursuant to this section did not preclude such action. Nat'l Camera, Inc. v. Sanchez, 832 P.2d 960 (Colo. App. 1991).

**Applied** in Hansen v. Colo. Sch. of Mines, 42 Colo. App. 292, 599 P.2d 928 (1979); Rivas v. State Bd., 517 F. Supp. 467 (D. Colo. 1981).

### **23-60-104.5. Recommendations of governor's task force - legislative declaration.**

(1) The general assembly hereby finds and declares that:

(a) On December 23, 2003, by executive order, the governor established the governor's task force to strengthen and improve the community college system;

(b) The task force was charged with evaluating the current structure of governance and administration in the state system of community colleges and recommending reforms and cost savings to the governor, the Colorado commission on higher education, the board, and, if applicable, the general assembly;

(c) The task force met ten times and sponsored five public forums at community colleges around the state;

(d) The task force made six recommendations to the governor along with a two-year time line for completing each recommendation and sending periodic reports to the governor;

(e) These recommendations were:

(I) Decreasing the administrative costs of the system office;

(II) Maintaining a central system office but restructuring its functions;

(III) Centralizing and standardizing the information technology functions of the system office;

(IV) Decentralizing institutional research functions of the colleges;

(V) Restructuring of distance learning; and

(VI) Completing a comprehensive review of the administrative costs for career and technical education;

(f) The task force recommended that any cost savings achieved from the recommendations, pursuant to paragraph (a) of subsection (3) of this section, should go to program providers for enhancing services pursuant to paragraph (c) of subsection (3) of this section;

(g) The task force recommended that the board conduct a comprehensive examination of the Lowry campus, including how to develop the land to its highest and best use and how any funds resulting from these changes may be invested in the classrooms of the state system of community colleges;

(h) The task force established a time line for the board to follow and included in that time line periodic reports to the governor; and

(i) It is in the best interests of the public that some of these recommendations be put into statute.

(2) As used in this section, unless the context otherwise requires:

(a) "Colleges" means the community colleges under the control of the board.

(b) "System office" means the office under the board that provides services to all of the colleges.

(c) "Task force" means the governor's task force established pursuant to an executive order dated December 23, 2003.

(3) (a) For the state fiscal year commencing on July 1, 2004, and ending on June 30, 2005, the board shall reduce the state-funded administrative costs of the system office by at least twenty percent.

(b) The moneys available because of the reductions required by paragraph (a) of this subsection (3) shall be used to finance the following recommendations of the task force:

(I) (A) The installation of a centralized, standardized, integrated, system-wide information technology system solution for the colleges.

(B) On or before July 1, 2004, the board shall begin implementation of the centralized, standardized, integrated, system-wide information technology configuration for the colleges. The implementation of the information technology configuration shall be substantially completed on or before June 30, 2006. The board and the colleges shall adopt best practices for all business processes.

(II) By January 1, 2005, the restructuring of distance learning at all colleges by requiring the system office to provide and all colleges to use a common utility infrastructure and maintain a common standard for security and accreditation;

(III) (Deleted by amendment, L. 2005, p. 1016, § 10, effective June 2, 2005.)

(IV) By July 1, 2004, conducting a comprehensive review by the board of the administrative costs for career and technical education.

(c) Any remaining moneys available because of the reductions required by paragraph (a) of this subsection (3) after the financing of the recommendations specified in paragraph (b) of this subsection (3) shall be used in delivering classroom instruction and in support of the colleges.

(4) (a) On or before June 30, 2005, the state board shall develop a master plan for the use, development, or sale of the real property at the Lowry campus, except for the property used by the community college of Aurora or the community college of Denver. Nothing in this section shall prevent the board from allowing a charter school to be located at the Lowry campus prior to the development of the master plan, and nothing in the master plan shall cause the displacement of a charter school.

(b) On or before June 30, 2006, the state board may enter into an agreement with a third-party master developer to carry out the use, development, or sale of the real property for the Lowry campus.

(5) (a) As used in this subsection (5), unless the context otherwise requires, "net proceeds from the Lowry property" means the proceeds from the sale, ground lease, or other disposition of the real estate interests of the state board at the Lowry campus, less the actual and reasonable costs of completing the transaction and less any unsatisfied debt or other obligation relating to such real estate interests.

(b) The net proceeds from the Lowry property may be maintained in an account for use by the state board for capital-development-related projects at the system office or the colleges.

(6) On or before October 1, 2004, July 1, 2005, and July 1, 2006, the board shall submit to the governor and to the education committees of the senate and house of representatives reports on the progress made in implementing the recommendations contained in this section.

**Source:** L. 2004: Entire section added, p. 1529, § 1, effective May 28. L. 2005: (3)(a) and (3)(b)(III) amended, p. 1016, § 10, effective June 2.

### **23-60-105. Staff and appointments. (Repealed)**

**Source:** L. 67: p. 439, § 5. C.R.S. 1963: § 124-26-5. L. 86: Entire section repealed, p. 841, § 7, effective April 14.

**23-60-106. Notification concerning gaming schools.** The board shall notify the limited gaming control commission created in section 12-47.1-301, C.R.S., of any educational program or school offering instruction in occupations relating to limited gaming or any other gambling.

**Source:** L. 91: Entire section added, p. 1590, § 12, effective June 4.

**23-60-107. State board for community colleges and occupational education fund - creation - control - use.** (1) There is hereby created in the state treasury the state board for community colleges and occupational education fund which shall be under the control of and administered by the board in accordance with the provisions of this article. Except as otherwise allowed by section 24-36-103 (2), C.R.S., all moneys received or acquired by the board or by any of the institutions it governs, whether by appropriation, grant, contract, or gift, by sale or lease of surplus real or personal property, or by any other means, whose disposition is not otherwise provided for by law, and all interest derived from the deposit and investment of moneys in the fund shall be credited to said fund. The moneys in the fund



are hereby continuously appropriated to the board and shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) The moneys in the state board for community colleges and occupational education fund shall be used by the board for the payment of salaries and operating expenses of the board and of the institutions it governs and for the payment of any other expenses incurred by the board in carrying out its statutory powers and duties.

(3) Moneys in the state board for community colleges and occupational education fund which are not needed for immediate use by the board may be invested by the state treasurer in investments authorized by sections 24-36-109, 24-36-112, and 24-36-113, C.R.S. The board shall determine the amount of moneys in the fund which may be invested and shall notify the state treasurer in writing of such amount.

**Source: L. 97:** Entire section added, p. 318, § 3, effective July 1. **L. 98:** (1) amended, p. 369, § 6, effective September 1.

**23-60-108. Board responsibilities - direct care provider career path pilot program - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 959, § 6, effective July 1.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2002, p. 959.)

## PART 2

### STATE SYSTEM OF COMMUNITY AND TECHNICAL COLLEGES

**23-60-201. State system of community and technical colleges established - local district colleges - role and mission.** There is hereby established a state system of community and technical colleges which shall be under the management and jurisdiction of the state board for community colleges and occupational education. The mission of the community colleges shall be to serve Colorado residents who reside in their service areas by offering a broad range of general, personal, vocational, and technical education programs. Each college shall be a two-year college. Each community college may offer two-year degree programs with or without academic designation. No college shall impose admission requirements upon any student. The objects of the community and technical colleges shall be to provide educational programs to fill the occupational needs of youth and adults in technical and vocational fields, two-year transfer educational programs to qualify students for admission to the junior year at other colleges and universities, basic skills, workforce development, and a broad range of personal and vocational education for adults.

**Source: L. 67:** p. 439, § 6. **C.R.S. 1963:** § 124-26-10. **L. 85:** Entire section R&RE, p. 765, § 15, effective July 1. **L. 2003:** Entire section amended, p. 2596, § 5, effective July 1. **L. 2010:** Entire section amended, (SB 10-088), ch. 154, p. 530, § 1, effective August 11.

**23-60-202. Duties of board with respect to state system - repeal.** (1) With respect to the community and technical colleges within the state system, the board has the authority, responsibility, rights, privileges, powers, and duties customarily exercised by the governing boards of institutions of higher education, including the following:

(a) To recommend to the Colorado commission on higher education and the general assembly the location and priorities for establishment of new community and technical colleges;

(b) To construct, lease, or otherwise provide facilities needed for the community and technical colleges as authorized by the general assembly; to issue in the name of the board revenue bonds and other revenue obligations in the manner, for the purposes, and subject to the provisions provided by law for state educational institutions under article 5 of this

title or for junior college districts; and to refund in the name of the board revenue bonds and other revenue obligations transferred to the board or incurred by the board as provided in this article, such refunding to be undertaken pursuant to article 54 of title 11, C.R.S.;

(c) (I) (A) To fix the tuition and fees to be charged in the community and technical colleges. The board shall fix tuition in accordance with the level of cash fund appropriations set by the general assembly for such institutions pursuant to section 23-1-104 (1) (b) (I).

(B) Notwithstanding any provision of sub-subparagraph (A) of this subparagraph (I) to the contrary, for fiscal years 2011-12 through 2015-16, the board, in accordance with section 23-5-130.5, shall annually set the amount of tuition to be paid by students with in-state classification and by nonresident students who enroll in and attend the community and technical colleges. This sub-subparagraph (B) is repealed, effective July 1, 2016.

(II) To the extent space is available, the board may allow persons licensed pursuant to article 60.5 of title 22, C.R.S., to take, without charge at community and technical colleges, classes identified by the department of public safety pursuant to section 24-33.5-110, C.R.S., as related to the national incident management system developed by the federal emergency management agency.

(d) To appoint the chief administrative officer of each community and technical college;

(e) To recommend and review proposals for the establishment of curriculums and for major changes in curriculums, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(f) To define the requirements of appropriate degrees and certificates and to authorize the award thereof in the community and technical colleges, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(f.5) To review and approve the degree programs described in section 23-60-211, subject only to the review function of the Colorado commission on higher education relating to formal academic programs;

(g) To develop a plan with the governing boards of baccalaureate degree-granting universities and colleges of the state which will assure maximum freedom of transfer of students between local junior colleges and community and technical colleges under the direct control of the board and such universities and colleges;

(h) To receive, review, and transmit with recommendations to the Colorado commission on higher education and the general assembly both operating and capital budget requests of the community and technical colleges;

(i) To plan, in cooperation with other state agencies, the allocation of federal funds for instructional programs and student services, including funds for vocational and technical education and retraining;

(j) To determine policies pertaining to the community and technical colleges, subject only to the functions and powers assigned by law to the Colorado commission on higher education relating to formal academic programs;

(k) To control the direction of funds and appropriations to the colleges in the system;

(l) To receive, demand, and hold for the uses and purposes of the colleges in the system such moneys, lands, or other properties as may be donated, devised, leased, or conveyed and to apply the same in such manner as will serve best the objects and interests of the colleges in the system;

(m) To develop and implement, in coordination with four-year institutions and under the direction of the Colorado commission on higher education, a core transfer program for students wishing to obtain a baccalaureate degree after transferring out of the state system to a four-year institution, which program shall be implemented within the state system by September 15, 1987.

(n) Repealed.

**Source:** L. 67: p. 439, § 7. C.R.S. 1963: § 124-26-11. L. 70: p. 358, § 14. L. 85: (1)(d) and (1)(i) amended and (1)(k) and (1)(l) added, p. 765, § 16, effective July 1. L. 86: (1)(m) added, p. 840, § 3, effective April 14. L. 93: (1)(c) amended, p. 1520, § 30, effective June 6. L. 2007: (1)(n) added, p. 338, § 4, effective April 2. L. 2008: (1)(c) amended, p. 119, § 7, effective March 19; (1)(c) amended, p. 805, § 6, effective May 14.



**L. 2009:** (1)(n) repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21.  
**L. 2010:** (1)(c)(I) amended, (SB 10-003), ch. 391, p. 1845, § 18, effective June 9; (1)(f.5) added, (SB 10-088), ch. 154, p. 530, § 2, effective August 11.

**Editor's note:** Amendments to subsection (1)(c) by Senate Bill 08-126 and Senate Bill 08-181 were harmonized.

**Cross references:** (1) For classification of students for tuition purposes, see article 7 of this title.  
(2) For the legislative declaration contained in the 2008 act amending subsection (1)(c), see section 1 of chapter 215, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsection (1)(c)(I), see section 1 of chapter 391, Session Laws of Colorado 2010.

## ANNOTATION

**Exclusive hiring authority.** The state board for community colleges and occupational education has exclusive hiring authority and any hiring decision is subject to its approval. *Rivas v. State Bd.*, 517 F. Supp. 467 (D. Colo. 1981).

**Duty to appoint faculty and administrators not delegable.** Absent legislative authorization,

the duty of the state board of community colleges and occupational education to approve appointments of faculty and administrative personnel may not be delegated to a college council, expressly or impliedly. *Van Pelt v. State Bd. for Cmty. Colls. & Occupational Educ.*, 195 Colo. 316, 577 P.2d 765 (1978).

**23-60-202.5. Powers of board with respect to the higher education and advanced technology center at Lowry.** The board is authorized to lease classroom and administrative facilities located at the higher education and advanced technology center at Lowry to colleges within the state system of community and technical colleges and to public and private institutions of higher education that are not included in the system.

**Source: L. 95:** Entire section added, p. 582, § 1, effective May 22.

**23-60-203. Duties of board with respect to local junior colleges.** (1) With respect to local junior colleges operating under the provisions of article 71 of this title, the board shall:

- (a) Exercise all powers and perform all duties vested prior to July 1, 1967, in the state board of education or in the commissioner of education with respect to local junior colleges;
- (b) Review and make recommendations concerning requests by any local junior college for appropriations for capital construction before such requests are submitted to the Colorado commission on higher education and the general assembly; and
- (c) Provide such junior colleges with such technical assistance as they may request.

**Source: L. 67:** p. 440, § 8. **C.R.S. 1963:** § 124-26-12. **L. 73:** p. 1337, § 1. **L. 75:** IP(1) and (1)(c) amended, p. 787, § 11, effective July 1. **L. 78:** (1)(a) amended, p. 265, § 60, effective May 23.

**23-60-204. Financing.** Except as provided in this article, the construction, operation, and maintenance of the community and technical colleges within the state system shall be financed by the state in the same manner as are all other state institutions of higher education.

**Source: L. 67:** p. 440, § 9. **C.R.S. 1963:** § 124-26-13.

**23-60-205. Community and technical colleges.** The state system of community and technical colleges shall include: Arapahoe community college, Colorado Northwestern community college, the community college of Aurora, the community college of Denver, Front Range community college, Lamar community college, Morgan community college, northeastern junior college, Otero junior college, Pikes Peak community college, Pueblo community college, Red Rocks community college, Trinidad state junior college, and

Colorado community college and occupational education system college. The state system of community and technical colleges shall be governed by the state board for community colleges and occupational education.

**Source:** L. 67: p. 440, § 10. C.R.S. 1963: § 124-26-14. L. 85: Entire section R&RE, p. 766, § 17, effective July 1. L. 95: Entire section amended, p. 56, § 6, effective March 20. L. 2003: Entire section amended, p. 2596, § 6, effective July 1.

**23-60-206. College advisory council.** (1) The board shall establish a procedure for receiving nominations for appointments to the college advisory council and shall appoint a seven-member college advisory council for each community and technical college under its governance, composed of residents from the area in which the community and technical college is located and serves, which council shall meet at least quarterly with the chief administrative officer of the college. The board of trustees of any local junior college shall be designated as the first college advisory council when such local junior college joins the state system, and members thereof shall serve for the duration of their terms. Upon expiration of such terms, new appointees shall be so designated that the college advisory council will at all subsequent times include at least two members familiar with occupational education needs. Of members first appointed, three members shall be appointed for four years and two members for two years. Thereafter, terms of members appointed to the college advisory council shall be for four years. The members of a college advisory council in office on April 14, 1986, shall remain in office for the remainder of their respective terms, and, thereafter, may be reappointed by the board. Effective July 1, 1986, the board shall appoint two members for each college advisory council, one member to serve for a term of two years and one member to serve for a term of four years. Members of the college advisory council shall receive twenty dollars per day for meetings attended and shall be reimbursed for actual and necessary expenses incurred in the conduct of official business.

(1.5) Notwithstanding the provisions of subsection (1) of this section, if the plan for Colorado Northwestern community college to join the state system of community and technical colleges is approved and moneys are appropriated therefor as provided in section 23-71-207 and if the Moffat county affiliated junior college district voters approve the ballot measure set forth in section 23-71-207 (1) (b) (II), the initial advisory council for Colorado Northwestern community college shall consist of three members of the Rangely junior college district board of trustees, three members of the Moffat county affiliated junior college district board of control, and one member at large to be appointed by the state board for community colleges and occupational education from the Colorado Northwestern community college designated service area. If the Moffat county affiliated junior college district voters do not approve the ballot measure set forth in section 23-71-207 (1) (b) (II), the provisions of subsection (1) of this section shall apply.

(2) The board shall officially recognize within its policies the manner in which it shall receive advice from local councils concerning local oversight of each of the state system community colleges and shall include consideration of advice in the areas of tuition and fees; operating and capital budgets; allocation of moneys; money, land, and other property; instructional programs; degrees and certificates; appointment of chief administrative officers of campuses; personnel policies; and admissions and academic standards. A report containing such information shall be prepared and submitted to the Colorado commission on higher education no later than January 15, 1987.

**Source:** L. 67: p. 441, § 11. C.R.S. 1963: § 124-26-15. L. 85: (2) amended, p. 770, § 28, effective July 1. L. 86: (1) amended and (2) R&RE, pp. 840, 841, §§ 4, 5, effective April 14; (1) amended, p. 845, § 5, effective July 1. L. 98: (1.5) added, p. 902, § 2, effective May 26.

**Editor's note:** Amendments to subsection (1) in House Bill 86-1133 and House Bill 86-1237 were harmonized.



## ANNOTATION

**State board has exclusive hiring authority.**

The state board for community colleges and occupational education has exclusive hiring authority and any hiring decision is subject to its approval. *Rivas v. State Bd.*, 517 F. Supp. 467 (D. Colo. 1981).

**Duty to appoint faculty and administrators not delegable.** Absent legislative authorization, the duty of the state board of community colleges and occupational education to approve

appointments of faculty and administrative personnel may not be delegated to a college council, expressly or impliedly. *Van Pelt v. State Bd. for Cmty. Colls. & Occupational Educ.*, 195 Colo. 316, 577 P.2d 765 (1978).

**Council may not be sued in own name.** The college council has not been endowed with the authority to be sued in its own name. *Rivas v. State Bd.*, 517 F. Supp. 467 (D. Colo. 1981).

**23-60-207. College service areas.** Each college in the state system of community and technical colleges shall operate within a service area assigned by the Colorado commission on higher education.

**Source: L. 85:** Entire section added, p. 766, § 18, effective July 1.

**23-60-208. Eminent domain.** The board has the power to take and hold, by gift, devise, purchase, or lease or through the exercise of the power of eminent domain pursuant to law, so much land as may become necessary for the location and construction of such buildings, structures, and other facilities as may be required for the uses and purposes of the colleges in the state system.

**Source: L. 85:** Entire section added, p. 766, § 18, effective July 1.

**23-60-209. Programs and services.** The board shall ensure that no unnecessary duplication of programs or services exists between the community colleges in the metropolitan Denver area and the vocational schools operating in the same geographic area.

**Source: L. 85:** Entire section added, p. 766, § 18, effective July 1.

**23-60-210. Transfer of records and equipment - creation of new colleges.** (1) At the board's discretion, the board may transfer books, records, equipment, property, personnel, accounts, and liabilities of the community college of Denver or any other entity to Red Rocks community college, Front Range community college, and the reconstituted community college of Denver in order to effect the creation of such colleges.

(2) All employees, exempt and classified, transferred pursuant to subsection (1) of this section shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All such transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

**Source: L. 85:** Entire section added, p. 766, § 18, effective July 1.

**23-60-211. Degrees.** (1) Before a community college offers a two-year degree program with academic designation, as authorized by section 23-60-201, the community college shall determine the program designation for the degree. A two-year degree program with academic designation shall only be for a degree program that has a valid student transfer agreement pursuant to section 23-1-108 (7); except that a community college may offer a two-year degree program with academic designation in dental hygiene without a valid student transfer agreement. The community college shall then submit the degree program designation to the board for its review and approval. The community college may offer the degree program only after it has been approved by the board and by the Colorado commission on higher education. The community college shall exclusively use the degree

program designation name in official publications, course catalogs, diplomas, and official transcripts.

(2) Successful completion of an associate of arts or associate of science degree with academic designation does not guarantee the degree holder admission to a four-year state-supported institution of higher education; nor does it guarantee the degree holder automatic transfer of credits unless the degree holder has fulfilled the requirements of an existing statewide transfer agreement.

**Source: L. 2010:** Entire section added, (SB 10-088), ch. 154, p. 531, § 3, effective August 11. **L. 2012:** (1) amended, (HB 12-1214), ch. 212, p. 914, § 1, effective August 8.

**23-60-212. Northeastern junior college - golf course and restaurant - positions of employment.** Positions of employment for the operation of the golf course and restaurant that are owned and operated by Northeastern junior college and open to the public, known commonly as the “Northeastern 18” and the “Plainsman Grill and Steakhouse”, and any successor businesses, are exempt from the state personnel system.

**Source: L. 2011:** Entire section added, (HB 11-1187), ch. 53, p. 139, § 1, effective March 24.

### PART 3

#### OCCUPATIONAL EDUCATION

**23-60-301. Supervision of occupational education.** The director of occupational education shall supervise the administration of the occupational education programs of the state and upon approval of the board shall determine the allocation and distribution of state and federal vocational education funds to the community and technical colleges, local junior college districts, individual school districts, and other appropriate state and local educational agencies and institutions.

**Source: L. 67:** p. 441, § 12. **C.R.S. 1963:** § 124-26-20.

**23-60-302. Approval for postsecondary occupational programs.** The board shall review each proposal by any board of cooperative services for the establishment of any new postsecondary program of occupational education and shall transmit its decision thereon to such board of cooperative services within ninety days after receipt of such proposal. No board of cooperative services shall establish a new postsecondary program of occupational education without first obtaining approval from the board.

**Source: L. 67:** p. 442, § 13. **C.R.S. 1963:** § 124-26-21.

**23-60-303. Acceptance of congressional acts.** (1) The state of Colorado accepts the provisions, terms, and conditions of the acts of the congress of the United States, known as the “Smith-Hughes Vocational Education Act” (Pub.L. 347), the “George-Barden Vocational Education Act of 1946” (Pub.L. 586), the “Vocational Education Act of 1963” (Pub.L. 210), and that portion of the “Manpower Development and Training Act of 1962” (Pub.L. 415) which is administered by any educational agencies, and any amendments enacted by the congress to any of said acts.

(2) The state board for community colleges and occupational education is designated as the state board for vocational education and declared to be the sole agency for purposes of compliance with the said acts of congress and with any subsequent and future acts of congress requiring the designation of a state agency for the administration of the state plan of vocational education and for receiving and administering funds appropriated by the congress for programs of vocational education. The state board for community colleges and



occupational education is also designated as the state approving agency pursuant to section 1771 of title 38, United States Code.

(3) The state treasurer is hereby appointed custodian of the funds due and payable to the state of Colorado by the said acts of congress and is authorized to pay out such funds on warrants drawn by the controller on the order of the board.

**Source:** L. 67: p. 442, § 14. C.R.S. 1963: § 124-26-22. L. 71: p. 1187, § 1.

**Cross references:** Prior to its repeal in 1997, the "Smith-Hughes Vocational Education Act" was codified at 20 U.S.C. 11 et seq.; prior to its repeal in 1973, the "Manpower Development and Training Act of 1962" was codified at 42 U.S.C. 2571 et seq.; for the "George-Barden Act", see the "Vocational Education Act of 1946", 20 U.S.C. 15h et seq.; for the "Vocational Education Act", see chapter 44 of title 20, U.S.C.

#### ANNOTATION

**In the field of federal-state cooperation in the disbursement of federal assistance through state agencies, state enabling legislation is generally enacted, such as this section which specifically provides for the acceptance of the provisions, terms, and conditions of cer-**

tain congressional acts and designates the state board as the sole agency for compliance with those particular congressional acts. *Colo. Polytechnic Coll. v. State Bd. for Cmty. Colls.*, 173 Colo. 39, 476 P.2d 38 (1970).

#### **23-60-304. Plans - development and implementation - credentialing - fees.**

(1) The board shall prepare state plans for occupational education in this state that are required for compliance with any acts of congress which require a state plan for vocational education and shall prepare or approve such further plans for occupational education programs as it deems necessary.

(2) The board shall provide for the implementation of state plans for occupational education and for this purpose may enter into contracts with or purchase services from the governing bodies of school districts, boards of cooperative services, junior college districts, other approved local educational agencies, state institutions of higher education, private vocational schools that have been approved under the provisions of article 59 of title 12, C.R.S., and other appropriate agencies and institutions.

(3) (a) The state plans for occupational education shall include provisions relating to the training of teachers and administrators of occupational subjects and programs, and the board shall take steps to implement these provisions. The board shall also establish minimum qualifications necessary for teachers of occupational subjects, teacher-trainers, supervisors, directors, occupational counseling specialists, and others having responsibilities in connection with occupational education at both the secondary and postsecondary levels and shall certify these qualifications to the department of education.

(b) Credentials to teach an occupational subject or program shall be issued as follows:

(I) The board shall issue a credential to a person specified in this subsection (3) who teaches an occupational subject or program at the postsecondary level and who meets the established minimum qualifications; except that the board may delegate to a postsecondary institution the authority to issue the credential. The board shall establish and charge fees for the issuance of a credential issued pursuant to this subparagraph (I). The amount of the fee shall be determined by the board on the basis of the direct and indirect cost of providing the service. If a postsecondary institution issues a credential, that postsecondary institution may charge the fee established by the board.

(II) The department of education shall issue a credential to a person specified in this subsection (3) who has responsibility for an occupational subject or program at the secondary level and who meets the minimum qualifications established by the board. The state board of education shall establish and charge fees pursuant to sections 22-2-132 and 22-60.5-112, C.R.S., for the issuance of a credential pursuant to this subparagraph (II).

(4) (a) The board has the authority to enter into cooperative arrangements with the system of public employment offices in the state, in order to make available to appropriate

educational agencies all occupational information possessed by such employment offices regarding reasonable prospects of employment in the community and elsewhere, so that such agencies may consider such information in providing occupational guidance and counseling to students and prospective students, and in determining the occupations for which persons should be trained, and in order to make available to the public employment offices information possessed by guidance and counseling personnel regarding the qualifications of persons leaving or completing occupational education programs, so that the employment offices may be aided in the occupational guidance and placement of such persons.

(b) The board shall enter into a cooperative arrangement with the state department of human services to develop:

(I) Appropriate educational and academic training programs for participants in the Colorado works program, created in part 7 of article 2 of title 26, C.R.S., based upon the job market analysis prepared in accordance with section 26-2-712 (10), C.R.S.; and

(II) A tuition voucher system pursuant to which a participant in the Colorado works program, created in part 7 of article 2 of title 26, C.R.S., may attend courses at an institution in the state's system of community and technical colleges by using a tuition voucher.

(5) The board shall establish a comprehensive plan for the role of occupational education in support of overall state educational policy that includes improved criteria to measure the quantity, quality, and cost of occupational education in Colorado, alternative funding mechanisms for occupational education including the possibility of private sector support of specialized programming, and a determination of how the board will coordinate among the various agencies responsible for providing vocational and occupational education in Colorado. The plan shall be contained in a report to be submitted to the Colorado commission on higher education on or before January 15, 1987.

(6) The board shall enter into a cooperative arrangement with the division of fire prevention and control in the department of public safety to develop a system in which a qualified volunteer firefighter may receive a tuition voucher to attend courses at an institution in the state system of community and technical colleges in accordance with section 24-33.5-1216, C.R.S.

**Source:** L. 67: p. 442, § 15. C.R.S. 1963: § 124-26-23. L. 69: p. 1072, § 1. L. 75: (2) amended, p. 510, § 3, effective January 1, 1976. L. 86: (5) added, p. 841, § 6, effective April 14. L. 98: (4) amended, p. 336, § 2, effective April 17. L. 2008: (3) amended, p. 910, § 2, effective May 20; (4)(b)(I) amended, p. 1978, § 25, effective January 1, 2009. L. 2009: (6) added. (SB 09-021), ch. 414, p. 2288, § 1, effective August 5. L. 2012: (6) amended, (HB 12-1283), ch. 240, p. 1132, § 42, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (6), see section 1 of chapter 240, Session Laws of Colorado 2012.

**23-60-305. Coordination of resources.** The board shall coordinate all resources available for the promotion of job development, job training, and job retraining in the state, including, but not limited to, secondary, postsecondary, and out-of-school or on-site work programs, and shall make available this and any other information relating to occupational education.

**Source:** L. 67: p. 443, § 16. C.R.S. 1963: § 124-26-24.

**23-60-306. Colorado customized training program - creation - policy - functions of the state board for community colleges and occupational education.** (1) This section shall be known and may be cited as the "Colorado Customized Training Act".

(2) (a) The general assembly hereby finds and declares:

(I) That it is the policy of this state to encourage quality economic development by providing incentives for the location of new industries or the expansion of existing firms, thereby improving employment opportunities for the citizens of this state; that skilled labor



availability is a key element in new or expanding company plant location or expansion decisions; and that, during site selection negotiations, the ability to guarantee a trained local work force to match the new or expanding company's specific job skill needs is crucial to the improvement of the economic development capabilities of this state and for competition with other states offering similar programs; and

(II) That fast-track training, involving highly intensive, short-duration skill training for specific jobs, is necessary to provide the unemployed and underemployed with an economic development training program to allow them to compete for newly created jobs, and that job-specific, start-up training provides job-seekers with the skills necessary to increase their productivity, to increase their wages, and to reduce their need for public support.

(b) Therefore, it is hereby declared to be the policy of this state to promote the health, safety, opportunity for gainful employment, business opportunities, increased productivity, and general welfare of the inhabitants of this state by the creation of the Colorado customized training program.

(3) (a) There is hereby created the Colorado customized training program within the board. Except as otherwise provided in subsection (6) of this section, said program shall be operated as a joint effort with the department of local affairs and in cooperation with the department of labor and employment, the department of human services, and state and local education agencies.

(b) Training for new jobs may include any of the following or any combination thereof:

(I) Preemployment training of workers;

(II) Training of workers upon first being hired;

(III) Retraining of workers for new job openings when they have lost their previous jobs because of plant closings or have been displaced by technological changes.

(c) Training shall not be provided by the Colorado customized training program when a trained and experienced work force, seeking employment, already exists in the local labor market.

(d) Training shall be initiated by the Colorado customized training program only when the participating new or expanding company has identified specific job openings and has agreed to give any graduates of the Colorado customized training program hiring priority.

(e) The payment of all direct costs of the training programs specified in paragraph (b) of this subsection (3) shall be made from moneys available for the Colorado customized training program. Direct costs shall include:

(I) Instructor wages, travel, and per diem allowances;

(II) Lease of training equipment;

(III) Lease of training space;

(IV) Purchase of training supplies;

(V) Development of instructional materials; and

(VI) Administrative costs directly associated with each training session.

(f) Moneys of the Colorado customized training program shall not be used to pay wages or stipends to trainees during a training session.

(g) Any training session sponsored by the Colorado customized training program shall last no longer than the time required to provide local workers with specific job skills required by a participating firm.

(h) The board and the department of local affairs shall work with business and industry representatives to jointly develop specific training programs sponsored by the Colorado customized training program for the purposes specified in paragraph (b) of this subsection (3). Such training programs shall emphasize the training or retraining of workers for the benefit of small businesses.

(i) Training programs shall not be established if such training is available through Colorado's regular vocational or technical education system or the Colorado apprenticeship and training program.

(j) Existing vocational or technical education facilities and resources shall be used in the Colorado customized training program whenever such resources are available. The Colorado customized training program shall be coordinated through existing vocational or technical education institutions.

(k) Training programs shall be designed with the direct cooperation and approval of the participating company. The participating company may be requested to contribute technical expertise, machinery, training space, moneys, and other appropriate resources in order to improve program effectiveness.

(l) Moneys available for the Colorado customized training program shall be expended for the alleviation of unemployment, underemployment, economic distress, low productivity, or employment dislocation through the initiation of economic development and advanced technology training programs. At the discretion of the board, up to one hundred percent of all moneys available for the Colorado customized training program may be transferred to the Colorado existing industry training program created by section 23-60-307, for the purpose of providing funding to meet any existing demand for training and education programs within existing industries. The board shall consider the retention and expansion of existing business and industry as a high priority when making funding decisions.

(m) Beginning January 1, 1985, and each January 1 thereafter, the state board for community colleges and occupational education shall report to the joint budget committee and the legislative audit committee on the cost-effectiveness of the Colorado customized training program in assisting economic development in Colorado.

(n) Moneys available for the Colorado customized training program may be used by the board to offset partially or fully the cost of nonresident tuition at state institutions of higher education for relocated employees of companies which currently participate in the Colorado customized training program and have located new facilities in Colorado or which have expanded their operations in Colorado and for the dependents of such relocated employees.

(n.5) Moneys may be available from the Colorado customized training program for use in training potential employees, establishing programs related to training, and helping companies to train employees.

(o) Recognizing that customized training is a matter of statewide concern, the commission shall establish policies pursuant to section 23-1-105 to allow for annual general funding recommendations for customized training programs which are not otherwise funded under this section.

(4) The state board for community colleges and occupational education is authorized to accept, receive, and expend grants, gifts, and moneys from any source for the purpose of implementing its duties and functions under this section.

(5) The provisions of article 8 of this title, concerning state assistance for vocational education program support, shall not apply to the Colorado customized training program.

(6) On and after July 1, 2000, the Colorado office of economic development shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations previously vested in the department of local affairs under this section.

**Source:** **L. 84:** Entire section added, p. 641, § 1, effective July 1. **L. 88:** (3)(a), (3)(h), (3)(n), and (5) amended and (3)(o) added, p. 864, § 1, effective April 20. **L. 94:** (3)(a) amended, p. 2692, § 226, effective July 1. **L. 96:** (3)(m) amended, p. 1234, § 68, effective August 7. **L. 2000:** (3)(a) amended and (6) added, p. 1678, § 4, effective July 1. **L. 2001:** (3)(l) amended, p. 414, § 1, effective August 8. **L. 2004:** (3)(l) amended, p. 163, § 1, effective March 17. **L. 2009:** (3)(n.5) added, (SB 09-171), ch. 221, p. 1002, § 1, effective May 4.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (3)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act amending subsection (3)(m), see section 1 of chapter 237, Session Laws of Colorado 1996.

**23-60-307. Colorado existing industry training program - creation - policy - functions of the state board for community colleges and occupational education.**

(1) This section shall be known and may be cited as the "Colorado Existing Industry Training Act".

(2) (a) The general assembly hereby finds and declares:



(I) That it is the policy of this state to maintain our economic health and vitality by ensuring the availability of a skilled labor force by assisting existing Colorado companies, especially ones undergoing major technological change, to train and retrain their workers for specific jobs and thereby keep our industries profitable and competitive; and

(II) That job-specific, existing industry training is necessary to ensure job retention for workers currently employed and improve job opportunities for our citizens newly entering the job market by providing workers with enhanced skills necessary to increase their competency, to remain employed, and to prevent worker dislocation including the subsequent need for public support; and

(III) That technical assistance can be made available by our industries to our training institutions, since such institutions do not have the resources to constantly upgrade or buy new equipment and to maintain the sophisticated plant environments currently found in industry.

(b) Therefore, it is hereby declared to be the policy of this state to promote the health, safety, opportunity for gainful employment, business opportunities, increased productivity, and general welfare of the inhabitants of this state by the creation of the Colorado existing industry training program.

(3) (a) There is hereby created the Colorado existing industry training program within the state board for community colleges and occupational education. Said program shall be jointly administered by the state board of community colleges and occupational education and the Colorado office of economic development in cooperation with the department of labor and employment, governor's job training office, state and local education agencies and private industry councils (in the planning and review process), and approved joint apprenticeship programs.

(b) The program shall provide training or retraining workers for companies being affected by major technological change or for situations where training is deemed crucial for the company and for worker retention. The program shall give first priority to Colorado-based industries which are being affected by technological change, causing a decline in business which may result in dislocation of its work force by imminent layoffs which may impact the community where the company is located. No preference in selection shall be given based on the location of a business in the state. The determinations required by this paragraph (b) shall be made after considering the financial condition of applicant companies, on-site visits to applicant companies, and joint evaluations thereof by the state board for community colleges and occupational education and the Colorado office of economic development as joint operators of the program. Training or retraining under the program may include any of the following or any combination thereof:

(I) Training for permanent, nonretail sector jobs which have significant career opportunities and require substantive instruction;

(II) Upgrade training or retraining of workers in situations where training is required for continued employment and to minimize worker dislocation.

(c) A company must agree to act as sponsor in the development and implementation of the training program.

(d) Training shall be nonduplicative of existing course offerings provided by the community college or vocational-technical institution in the local area, whenever possible; except that the community college or vocational-technical institution shall contract with other approved training entities, public or private, or both, where said entities can provide the training at less cost.

(e) The payment of all direct costs of training programs specified in paragraph (b) of this subsection (3) shall be made from moneys available for the Colorado existing industry training program. Direct training costs shall include:

(I) Assessment and testing;

(II) Instructor wages, per diem, and travel;

(III) Curriculum development and training materials;

(IV) Lease of training equipment and training space.

(f) Moneys of the Colorado existing industry training program shall not be used to pay wages or stipends to trainees during a training session.

(g) Training assistance shall be encouraged for small and rural companies, although not limited to such companies.

(h) Forty percent of training costs must be financed by the sponsoring company in cash or in-kind expenditures. The company shall also be encouraged to participate with in-kind contributions of training space, training equipment, training supplies, and technical assistance.

(i) Training programs shall be designed with the direct participation of the sponsoring company.

(j) Any training session sponsored by the Colorado existing industry training program shall last no longer than the time required to provide workers with the job skills required by the sponsoring company.

(k) Moneys available for the Colorado existing industry training program shall be expended for the prevention of unemployment to minimize worker dislocation.

(l) and (m) Repealed.

(4) There is hereby created in the state treasury the Colorado existing industry training cash fund that shall consist of all moneys credited thereto pursuant to this subsection (4) and as otherwise provided by law. The general assembly shall make annual appropriations for fiscal years commencing on or after July 1, 1990, from the Colorado existing industry training cash fund to the state board for community colleges and occupational education for allocation to the Colorado existing industry training program for the implementation of this section.

(5) The state board of community colleges and occupational education is authorized to accept, receive, and expend grants, gifts, and moneys from any source for the purpose of implementing its duties and functions under this section.

(6) The provisions of article 8 of this title, concerning state assistance for vocational education program support, shall not apply to the Colorado existing industry training program.

**Source: L. 89:** Entire section added, p. 1009, § 1, effective June 7. **L. 96:** (3)(l) and (3)(m) repealed, p. 1233, § 67, effective August 7. **L. 2000:** (3)(a), IP(3)(b), and (4) amended, p. 1679, § 5, effective July 1.

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsections (3)(l) and (3)(m), see section 1 of chapter 237, Session Laws of Colorado 1996.

## PART 4

### LOCAL JUNIOR COLLEGES

#### 23-60-401 to 23-60-406. (Repealed)

**Source: L. 75:** Entire part repealed, p. 788, § 13, effective July 1.

**Editor's note:** This part 4 was numbered as article 26 of chapter 124, C.R.S. 1963. For amendments to this part 4 prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For present provisions concerning local junior colleges, see part 2 of article 71 of this title.

## PART 5

### MISCELLANEOUS

**23-60-501. Transfer of funds, property, etc.** (1) On July 1, 1967, all funds remaining to the credit of the former state board for vocational education and all property, including office furniture and fixtures, books, documents, and records, of the former state



board for vocational education are transferred to the state board for community colleges and occupational education.

(2) On July 1, 1967, all funds previously appropriated to the state board of education for the operation of the division of education beyond high school for the junior college function and the adult education function, but not including the programs of adult basic education, adult high school completion, adult education for civil defense, and general public school adult education, and all property, including office furniture and fixtures, books, documents, and records, relating to such transferred functions of the division of education beyond high school are transferred to the state board for community colleges and occupational education.

**Source:** L. 67: p. 446, § 20. C.R.S. 1963: § 124-26-36.

**23-60-502. Applicability of article.** Nothing in this article shall be construed to limit the duties, functions, or responsibilities of the department of human services.

**Source:** L. 67: p. 446, § 21. C.R.S. 1963: § 124-26-37. L. 88: Entire section amended, p. 1431, § 9, effective June 11. L. 94: Entire section amended, p. 2692, § 227, effective July 1.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

## PART 6

### WORKPLACE LITERACY PROGRAMS

**23-60-601. Certification of programs.** (1) In the interest of promoting adult literacy, the state board for community colleges and occupational education, in consultation with the college advisory councils of the community and junior colleges, shall develop and employ a program of certification for workplace literacy programs.

(2) Certification shall identify those programs, completion of which shall be accepted as satisfaction of basic skill prerequisites and placement testing for occupational training in the state system of community and junior colleges. Exemption from placement testing shall be available to anyone satisfactorily completing a certified workplace literacy program within one year of enrollment in any junior or community college. For purposes of this section, the term "basic skill prerequisites" means instruction in basic literacy and math skills which are necessary for placement in certificate and degree course programs at state community or junior colleges.

(3) The board shall develop and establish criteria, procedures, and accountability standards for the certification of workplace literacy programs. Nothing in this section shall be construed to restrict the operation of any workplace literacy program which is not certified according to the terms of this section, but no community or junior college shall credit completion in the workplace of basic skill prerequisites which are not completed in a certified program.

**Source:** L. 88: Entire part added, p. 866, § 1, effective July 1.

## PART 7

### PRIVATE OCCUPATIONAL SCHOOL DIVISION

**23-60-701. Legislative declaration.** The general assembly hereby finds and declares that, pursuant to article 59 of title 12, C.R.S., there is a demonstrated need for statewide administration of private occupational schools in order to provide standards for, foster improvements of, and protect the citizens of this state against fraudulent or substandard educational services in private occupational schools. Therefore, the general assembly has

determined that the overall responsibility for such administration and for ensuring compliance with article 59 of title 12, C.R.S., should be placed with a division that has only this responsibility. The statutes for the implementation of this division are located in article 59 of title 12, C.R.S.

**Source:** **L. 90:** Entire part added, p. 1157, § 2, effective July 1. **L. 98:** Entire section amended, p. 34, § 1, effective March 17. **L. 2008:** Entire section amended, p. 1479, § 21, effective May 28.

### **23-60-702. Definitions. (Repealed)**

**Source:** **L. 90:** Entire part added, p. 1158, § 2, effective July 1. **L. 98:** (1) amended, p. 34, § 2, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

### **23-60-703. Private occupational school division - creation. (Repealed)**

**Source:** **L. 90:** Entire part added, p. 1158, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

**Editor's note:** In 2008, this section was relocated to § 12-59-104.1.

### **23-60-704. Private occupational school board - established - membership. (Repealed)**

**Source:** **L. 90:** Entire part added, p. 1158, § 2, effective July 1. **L. 95:** (5) repealed, p. 116, § 2, effective March 31. **L. 98:** Entire section R&RE, p. 35, § 3, effective March 17. **L. 2004:** (3)(b) amended, p. 579, § 41, effective July 1. **L. 2006:** (3)(b) amended, p. 514, § 11, effective July 1. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

**Editor's note:** In 2008, this section was relocated to § 12-59-105.1.

### **23-60-704.5. Duties and powers of the board. (Repealed)**

**Source:** **L. 98:** Entire section added, p. 35, § 4, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 30, effective May 28.

### **23-60-705. Duties and powers of the division subject to the approval of the executive director. (Repealed)**

**Source:** **L. 90:** Entire part added, p. 1159, § 2, effective July 1. **L. 98:** Entire section amended, p. 36, § 5, effective March 17. **L. 2008:** Entire section repealed, p. 1483, § 29, effective May 28.

**Editor's note:** In 2008, this section was relocated to § 12-59-105.9.

## **PART 8**

### **AREA VOCATIONAL SCHOOLS**

**23-60-801. Area vocational schools - name.** The school district board of education or the board of cooperative services, whichever is applicable, that acts as the governing board of an area vocational school may, by resolution, rename the area vocational school to identify it as a technical college. Identifying an area vocational school as a technical college shall not change its status as an area vocational school nor change the governance or operation of the area vocational school.



**Source: L. 2004:** Entire part added, p. 929, § 2, effective August 4.

**23-60-802. Area vocational schools - credits - transfer.** On or before September 1, 2004, the board shall adopt policies to ensure that, if a student completes a program of study at an area vocational school and subsequently enrolls in an institution within the state system of community and technical colleges, or transfers from an area vocational school to an institution within the state system of community and technical colleges, any postsecondary course credits earned by the student while enrolled in the area vocational school will apply in full at another area vocational school or to an appropriate program leading to a certificate or to an associate degree at a community or technical college. Postsecondary credits earned by a student at an area vocational school may be transferred into an associate degree program at a community college or into a degree program at a four-year institution of higher education as provided in section 23-1-108 (7) and the state credit transfer policies established by the Colorado commission on higher education.

**Source: L. 2004:** Entire part added, p. 930, § 2, effective August 4.

ARTICLE 61

Community College of Denver

**23-61-101 to 23-61-106. (Repealed)**

**Source: L. 85:** Entire article repealed, p. 771, § 31, effective July 1.

**Editor’s note:** This article was numbered as article 24 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 61.5

Area Vocational Districts

PART 1		23-61.5-110.	Property tax - vocational services.
ORGANIZATION		23-61.5-111.	Area vocational districts subject to local government revenue-raising limitation.
23-61.5-101.	Formation - petition of electors.	23-61.5-112.	Additions to district - procedure.
23-61.5-102.	Election to organize.	23-61.5-113.	Dissolution of district.
23-61.5-103.	Notice to be given - when. (Repealed)	PART 2	
23-61.5-104.	Eligible electors - conduct of election.	LEVY AND COLLECTION OF TAXES	
23-61.5-105.	Certification of returns. (Repealed)	23-61.5-201.	Procedure.
23-61.5-106.	Record of votes.	23-61.5-202.	County officers to levy and collect - lien.
23-61.5-107.	Board of control - members and terms - meetings - officers.	23-61.5-203.	Sale for delinquencies.
23-61.5-108.	District - body corporate.		
23-61.5-109.	Powers of board.		

PART 1

ORGANIZATION

**23-61.5-101. Formation - petition of electors.** (1) Any area or part of an area of the state which is designated by the state board for community colleges and occupational education as an area to be served by an area vocational school and which also contains a

junior college district which is designated as an area vocational school pursuant to article 60 of this title may be formed as an area vocational district as provided in this part 1.

(2) An area vocational district may be formed upon the petition of five hundred eligible electors as defined in section 23-61.5-104. If the petition is for the formation of an area vocational district consisting of an area within a single county, it shall be filed with the county clerk and recorder of the county, and, if the petition is for the formation of an area vocational district situated in two or more counties, a copy of the petition shall be filed with the county clerk and recorder of each county in which a part of the district is located. The petition shall also set forth the rate of the levy which will be imposed to meet expenses during the fiscal year which immediately follows the year in which the election is held.

**Source:** L. 83: Entire article added, p. 812, § 1, effective June 1. L. 92: (2) amended, p. 844, § 41, effective January 1, 1993.

**23-61.5-102. Election to organize.** Upon receipt of the petition provided in section 23-61.5-101, the county clerk and recorder shall give notice to the eligible electors of the respective school districts located in the area of the proposed area vocational district that at the next regular biennial school election, or at a special election which may be called for the purpose, the question of organizing an area vocational district will be submitted to them.

**Source:** L. 83: Entire article added, p. 813, § 1, effective June 1. L. 92: Entire section amended, p. 845, § 42, effective January 1, 1993.

#### **23-61.5-103. Notice to be given - when. (Repealed)**

**Source:** L. 83: Entire article added, p. 813, § 1, effective June 1. L. 92: Entire section repealed, p. 845, § 43, effective January 1, 1993.

**23-61.5-104. Eligible electors - conduct of election.** (1) An eligible elector is an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the area vocational district. At the time and place of the election, the electors shall proceed to vote by ballot on the question of whether or not the proposed district shall be organized. The ballot shall also contain the rate of the levy to be imposed to meet expenses during the fiscal year which immediately follows the year in which the election is held. Those in favor of the organization shall vote for the organization and those opposed shall vote against the organization.

(2) All elections authorized under this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The county clerk and recorder in each county in which a part of the district is located shall be the designated election official for an organizational election. Thereafter the designated election official shall be the secretary of the board unless otherwise provided by the board.

**Source:** L. 83: Entire article added, p. 813, § 1, effective June 1. L. 92: Entire section amended, p. 845, § 44, effective January 1, 1993.

#### **23-61.5-105. Certification of returns. (Repealed)**

**Source:** L. 83: Entire article added, p. 814, § 1, effective June 1. L. 92: Entire section repealed, p. 846, § 45, effective January 1, 1993.

**23-61.5-106. Record of votes.** (1) If more than a majority of the votes cast on the question of organizing an area vocational district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(2) (Deleted by amendment, L. 92, p. 846, § 46, effective January 1, 1993.)



(3) The provisions of this section shall not be construed to prevent the filing of a subsequent petition for the formation of a similar area vocational district.

**Source:** L. 83: Entire article added, p. 814, § 1, effective June 1. L. 92: Entire section amended, p. 846, § 46, effective January 1, 1993.

**23-61.5-107. Board of control - members and terms - meetings - officers.** (1) Each area vocational district established pursuant to this part 1 shall have a board of control, referred to in this article as the “board”. The board shall consist of the members of the board of control of the junior college district contained in the area vocational district and one member from each of the school districts contained in the area vocational district, who shall be appointed by the school district’s board of directors for a term of three years.

(2) The board shall meet and select from among its members a president, a secretary, and a treasurer. The board shall prescribe by resolution the duties of said officers. In addition to other powers provided by resolution, the president shall preside over meetings of the board and shall vote as a member of the board.

(3) The regular meetings of the board shall be held as the board shall decide; except that there shall be no less than four regular meetings each year. Additional or special meetings may be held upon call of the president or a majority of the board. The secretary of the board shall notify the members of all meetings. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (3) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (3) and further stating the date, time, and place of such meeting.

**Source:** L. 83: Entire article added, p. 814, § 1, effective June 1. L. 90: (3) amended, p. 1495, § 1, effective July 1.

**23-61.5-108. District - body corporate.** Each regularly organized area vocational district which may be formed as provided in this part 1 is declared to be a body corporate, by the name and style of “..... Area Vocational District”, and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.

**Source:** L. 83: Entire article added, p. 815, § 1, effective June 1.

**23-61.5-109. Powers of board.** (1) In addition to any other powers granted by law to the board, such board shall have the following powers:

- (a) To have and use a corporate seal;
- (b) To sue and be sued in its own name;
- (c) To incur debts, liabilities, and obligations;
- (d) To employ agents and employees;
- (e) To cooperate and contract with the state or federal government or any agencies or instrumentalities thereof and to apply for and receive grants or financial assistance from any of such entities;
- (f) To act as and on behalf of the state of Colorado pursuant to a statutory authorization;
- (g) To acquire, hold, lease, sell, or otherwise dispose of any real or personal property, commodity, or service;
- (h) To adopt, by resolution, regulations necessary for the accomplishment or performance of the powers granted by law;

(i) To exercise any other powers which are essential to carrying out the provisions of this article;

(j) To do or perform any acts authorized by this section by means of an agent or by contract with any person, firm, or corporation;

(k) To provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties and reimburse a board member for necessary expenses incurred by him in the performance of his official duties, whether within or without the territorial limits of the district.

**Source: L. 83:** Entire article added, p. 815, § 1, effective June 1.

**23-61.5-110. Property tax - vocational services.** Each area vocational district, acting through its board, shall have the power to impose an ad valorem property tax against property in the district to raise revenue for the purpose of meeting the cost of the postsecondary vocational services provided within the district by the area vocational school which serves and is contained in the district, including but not limited to the cost of capital construction.

**Source: L. 83:** Entire article added, p. 815, § 1, effective June 1.

**23-61.5-111. Area vocational districts subject to local government revenue-raising limitation.** For the purposes of part 3 of article 1 of title 29, C.R.S., a board shall not be deemed to be a school board.

**Source: L. 83:** Entire article added, p. 816, § 1, effective June 1.

**23-61.5-112. Additions to district - procedure.** (1) If any part of the area designated by the state board for community colleges and occupational education as an area to be served by an area vocational school desires to be annexed to an existing area vocational district, it may do so by the following procedure:

(a) By obtaining approval of the existing area vocational district. The approval shall be given only upon a majority vote of the eligible electors of the existing area vocational district as expressed by a majority polled at the time of the regular biennial school election held in the area vocational district. The election shall be called only upon the affirmative vote of the board.

(b) By obtaining approval of the eligible electors residing in the part of the designated area desiring to be annexed voting on the question of annexation at a regular biennial school election. The election shall be called only upon the filing of a petition for inclusion with the county clerk and recorder of the county in which the part is located or with the county clerk and recorder of each county in which a part is located if the part is located in more than one county. The petition shall be signed by ten percent of the eligible electors who reside in the part. The provisions of sections 23-61.5-104 and 23-61.5-106 shall apply to the election. If more than a majority of all votes cast at the election are in favor of the inclusion, the part shall be included in the area vocational district.

**Source: L. 83:** Entire article added, p. 816, § 1, effective June 1. **L. 92:** Entire section amended, p. 847, § 47, effective January 1, 1993. **L. 2002:** (1)(b) amended, p. 1022, § 38, effective June 1.

**23-61.5-113. Dissolution of district.** Any area vocational district may be dissolved in the following manner: A plan for the dissolution of the area vocational district may be submitted to the eligible electors of the area vocational district at a special election held for that purpose. The plan shall provide for the payment of all district debts and liabilities and the distribution of all district assets. If the eligible electors authorize the dissolution by a vote of the majority of electors voting at the special election, the board shall proceed to carry out the plan so authorized and, upon accomplishment thereof, shall file its certificate



of that fact with the county clerk and recorder of the county wherein the district is situate. Thereupon, the district shall be considered dissolved. If any property or funds remain in the hands of the board, credit after the dissolution of the property or funds shall be distributed as provided in the plan of dissolution for the distribution of the assets of the area vocational district.

**Source: L. 83:** Entire article added p. 816, § 1, effective June 1. **L. 92:** Entire section amended, p. 848, § 48, effective January 1, 1993.

## PART 2

### LEVY AND COLLECTION OF TAXES

**23-61.5-201. Procedure.** (1) Except as provided in subsection (2) of this section, the board shall determine in each year the amount of money necessary to be raised by taxation and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the district, will raise the amount required by the district annually to supply funds to defray its expenses, including but not limited to the cost of postsecondary vocational services provided by the area vocational school and capital construction.

(2) The first rate of levy to be imposed shall be the mill levy which was contained in the petition for organization and which was voted upon in the election for organization. Thereafter, the rate of levy shall be determined as provided for in subsection (1) of this section.

(3) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board shall certify to the board of county commissioners of each county within the district, or having a portion of its territory within the district, the rate so fixed in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the district.

**Source: L. 83:** Entire article added, p. 816, § 1, effective June 1.

**23-61.5-202. County officers to levy and collect - lien.** It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by section 23-61.5-201. It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the district. The payment of such collections shall be made monthly to the treasurer of the district. All taxes levied under this part 2, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

**Source: L. 83:** Entire article added, p. 817, § 1, effective June 1.

**23-61.5-203. Sale for delinquencies.** If the taxes levied are not paid, delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties in the manner provided by the statutes of this state for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

**Source: L. 83:** Entire article added, p. 817, § 1, effective June 1.

ARTICLE 62

Pikes Peak Community College

23-62-101 to 23-62-106. (Repealed)

Source: L. 85: Entire article repealed, p. 771, § 31, effective July 1.

**Editor’s note:** (1) This article was numbered as article 25 of chapter 124, C.R.S. 1963. For amendments to this article prior to its repeal in 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) In the original volume 9 of C.R.S. 1973, Pikes Peak community college was known as El Paso community college. For the provisions effecting this name change, see L. 78, p. 386, § 1.

ARTICLE 63

Community College of Aurora

23-63-101 to 23-63-105. (Repealed)

Source: L. 85: Entire article repealed, p. 771, § 31, effective July 1.

**Editor’s note:** This article was added in 1983 and was not amended prior to its repeal in 1985. For the text of this article prior to 1985, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

EDUCATIONAL CENTERS AND JUNIOR COLLEGES

ARTICLE 70

Auraria Higher Education Center

23-70-101.	Legislative declaration.	23-70-106.5.	Resolution of disputes at Auraria center.
23-70-101.5.	Board abolished.	23-70-107.	Borrowing funds for auxiliary or complementary facilities.
23-70-102.	Auraria board - membership - terms - oaths - voting.	23-70-108.	Pledge of income.
23-70-103.	Responsibility of governing boards of constituent institutions.	23-70-109.	No property lien.
23-70-104.	Duties of the Auraria board.	23-70-110.	Tax exemption.
23-70-105.	General powers of the Auraria board.	23-70-111.	Certain debts and expenses prohibited.
23-70-105.5.	Public-private developments - definitions.	23-70-112.	Limitation of actions.
23-70-106.	Auraria board to have certain powers similar to powers exercised by the governing bodies of other state institutions of higher education.	23-70-113.	Possible change of Auraria higher education center. (Repealed)
		23-70-114.	Powers of board not limited.
		23-70-115.	Directive - master plans.
		23-70-116.	Auraria library - economic development data base.

**23-70-101. Legislative declaration.** (1) The general assembly hereby finds and declares that this article is necessary to:

(a) Provide for the coordination of the planning and construction of a multiinstitutional higher education complex located in the city and county of Denver on land designated therefor and on land now occupied by the university of Colorado at Denver, collectively known as the Auraria higher education center and referred to in this article as the “center”;

(b) Provide for the land, physical plant, and facilities necessary to accommodate and



house Metropolitan state university of Denver, the university of Colorado at Denver, and the community college of Denver, Auraria campus, referred to in this article as the “constituent institutions”, at and within the center;

(c) Facilitate the execution and performance of the constitutional and statutory responsibilities of the governing boards of the constituent institutions;

(d) Establish a new board to plan, construct, maintain, and manage the land and physical facilities of the center and perform the duties and exercise the powers otherwise set forth in this article;

(e) Provide a system for facilitating cooperation among the constituent institutions, their governing boards, and the governing board created by this article; and

(f) Facilitate, in conjunction with the private sector, the development of facilities at and within the center for the purposes of providing moneys to the center, providing occupational and educational opportunities consistent with the mission of the constituent institutions, and integrating the center with the adjacent Denver area.

**Source:** **L. 74:** Entire article added, p. 390, § 1, effective May 13. **L. 90:** (1)(b) amended, p. 1156, § 12, effective July 1. **L. 2008:** (1)(d) and (1)(e) amended and (1)(f) added, p. 1078, § 2, effective May 22. **L. 2012:** (1)(b) amended, (SB 12-148), ch. 125, p. 427, § 16, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (1)(b), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-70-101.5. Board abolished.** Effective July 1, 1989, the existing board of directors of the Auraria higher education center is abolished, and the terms of members of the board then serving are terminated.

**Source:** **L. 89:** Entire section added, p. 1013, § 1, effective July 1.

**23-70-102. Auraria board - membership - terms - oaths - voting.** (1) Effective July 1, 1989, there is hereby created a new board of directors of the Auraria higher education center, referred to in this article as the “Auraria board”, which shall consist of nine members and two ex officio nonvoting members. The members of the Auraria board shall be chosen in the following manner:

(a) (I) Three lay members appointed by the governor as soon as practicable after July 1, 1989, the first of whom shall serve for a term of one year, the second for a term of two years, and the third for a term of three years; thereafter, gubernatorial appointments shall be for three-year terms. All lay members appointed shall be residents of the Denver metropolitan area.

(II) In the event of death, resignation, or inability or refusal to act of any such appointed member, the governor shall fill the vacancy for the remainder of the term. Any vacancy in the elected office on the board shall be filled by reelection for the unexpired term.

(b) (I) The chief executive officers, respectively, of the regents of the university of Colorado, the board of trustees for Metropolitan state university of Denver, and the state board for community colleges and occupational education, or their designees, who shall be limited to the chancellor of the university of Colorado at Denver, the president of Metropolitan state university of Denver, and the president of the community college of Denver, respectively.

(II) Three members, one appointed by, and from among the members of, each of the following boards: The state board for community colleges and occupational education, the board of trustees for Metropolitan state university of Denver, and the regents of the university of Colorado, each such member to serve at the pleasure of the appointing board so long as he or she is a member of the appointing board.

(c) (I) An advisory committee of six members who are full-time students shall be elected, two from each of the student bodies of each of the three institutions governed by the Auraria board, and it shall elect one of its members to fill one office on the Auraria board

to serve for one term beginning July 1. Said elected office shall be advisory, without the right to vote. The elected member of the board shall have resided in the state of Colorado not less than three years prior to his or her election.

(II) Repealed.

(III) In the event of death, resignation, or inability or refusal to act of any such elected member of the student advisory committee, the student governing body of the institution with the vacancy shall appoint a full-time student from that institution to fill the vacancy for the remainder of the term.

(d) (I) An advisory committee of six members who are full-time faculty members shall be elected, two from each of the faculties of each of the three institutions governed by the Auraria board, and it shall elect one of its members to fill the remaining office on the Auraria board to serve for one-year terms beginning each July 1. The committee shall select such a member from the same institution only once in the same three-year period. Said elected office shall be advisory, without the right to vote. The elected member of the board shall have resided in the state of Colorado not less than three years prior to his or her election.

(II) Repealed.

(III) In the event of death, resignation, or inability or refusal to act of any such elected member of the faculty advisory committee, the faculty governing body of the institution with the vacancy shall appoint a full-time faculty member from that institution to fill the vacancy for the remainder of the term.

(2) Each member of the Auraria board shall take and subscribe to the oath of office prescribed by the constitution of this state before entering upon the duties of his office, which oath shall be placed and kept on file in the office of the secretary of state.

(3) All actions by the Auraria board shall be by majority vote, but, on all actions taken in which both representatives from any single system or institution have voted in the minority, the majority opinion shall prevail only if it is supported by a majority of the lay members of the Auraria board.

(4) In any instance in which no majority opinion can prevail under the terms of subsection (3) of this section, the Auraria board shall have sixty days in which to reach a determination by prevailing majority vote. If no majority determination is reached within sixty days, the commission on higher education shall thereafter consider and determine the issue at its next meeting.

(5) The Auraria board shall elect a chairman from among the lay members of the board who shall act as chairman at meetings of said board and as such board's representative in official dealings with third parties.

(6) Repealed.

**Source:** **L. 74:** Entire article added, p. 391, § 1, effective May 13. **L. 75:** IP(1) and (1)(a)(II) amended and (1)(c) added, p. 740, § 9, effective January 1, 1976. **L. 84:** IP(1) and (1)(c) amended and (1)(d) added, p. 644, § 1, effective April 5. **L. 86:** IP(1), (1)(c), and (1)(d) amended, p. 415, § 27, effective March 26. **L. 88:** (1)(b) amended, p. 862, § 22, effective July 1. **L. 89:** IP(1), (1)(a)(I), (1)(b), (1)(c)(II), and (1)(d)(II) amended and (3) to (6) added, p. 1013, § 2, effective July 1. **L. 93:** (6)(a) amended, p. 290, § 1, effective April 7; (1)(c)(II) and (1)(d)(II) repealed, p. 672, § 2, effective May 1. **L. 95:** (1)(b)(I) amended, p. 303, § 1, effective April 21; IP(1) amended, p. 1102, § 32, effective May 31. **L. 98:** (6) repealed, p. 12, § 1, effective March 6. **L. 2002:** (1)(b)(II) amended, p. 1282, § 8, effective July 1. **L. 2003:** (1)(b)(I) amended, p. 791, § 13, effective July 1. **L. 2011:** (1)(c) and (1)(d) amended, (HB 11-1017), ch. 26, pp. 65, 66, §§ 1, 2, effective March 17. **L. 2012:** (1)(b) amended, (SB 12-148), ch. 125, p. 428, § 17, effective July 1.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (1)(b)(II), see section 1 of chapter 307, Session Laws of Colorado 2002. For the legislative declaration in the 2012 act amending subsection (1)(b), see section 1 of chapter 125, Session Laws of Colorado 2012.

**23-70-103. Responsibility of governing boards of constituent institutions.** (1) Except as may be expressly provided in this article, the respective governing boards of the



constituent institutions are charged with the responsibility for, and shall plan, initiate, manage, and control, their respective programs within the Colorado system of higher education as provided in this article; and, in addition, said respective boards shall initiate and control joint academic and vocational programs among two or more of the constituent institutions at the center.

(2) The respective governing boards of the constituent institutions shall provide for a common academic calendar which is sufficient so that students may begin, make progress toward, and complete a course at a time which will allow full opportunity for enrollment in courses offered at any of the three constituent institutions. Registration periods shall coincide and the academic year shall commence and terminate simultaneously.

(3) The respective governing boards of the constituent institutions shall provide that credits earned at each of the constituent institutions shall be transferable between institutions insofar as they meet the degree and grade requirements of the student's chosen program of studies at one of the constituent institutions as determined by the degree-granting institution.

(4) The governing boards, through their respective chief executive officers, with the participation of the executive director of the commission on higher education, shall jointly draft a memorandum of agreement covering interinstitutional issues at the Auraria campus. The memorandum of agreement shall provide guidance and direction to the Auraria board in the determination of operationally related matters but shall not bind or otherwise limit the board in its authority to manage the Auraria campus. An initial memorandum of agreement shall be submitted to the commission on higher education to be forwarded to the general assembly not later than January 15, 1990.

**Source: L. 74:** Entire article added, p. 391, § 1, effective May 13. **L. 89:** (4) added, p. 1014, § 3, effective July 1.

**23-70-104. Duties of the Auraria board.** (1) The Auraria board has the duty:

(a) To acquire, plan, construct, own, lease, operate, maintain, manage, or dispose of all of the physical plant, facilities, buildings, and grounds in the center (except that land owned at the Auraria center by the regents of the university of Colorado shall continue under such ownership but shall be maintained and managed in a similar manner to the other facilities in the Auraria center) and such additional land and facilities as the Colorado commission on higher education may from time to time designate and approve and to accept and hold for the use of the center and its constituent institutions such property as was designated or used prior to May 13, 1974, for purposes of the center or its constituent institutions;

(b) To allocate among and assign to the constituent institutions, in accordance with needs, suitable space within the center for the use of such institutions and for such joint or cooperative educational, vocational, and other activities and programs as may be provided by the constituent institutions;

(c) To facilitate effective coordination and economies of operation of physical facilities by designating joint facilities of the constituent institutions, to include, but not be limited to, auxiliary facilities, as defined in section 23-5-101.5 (2) (a);

(d) To determine and designate the nonacademic and nonvocational joint programs or joint activities of the constituent institutions, to include, but not be limited to, security and fire protection, maintenance, and purchasing;

(e) To continually develop, review, and update annually a long-range plan for operation of the center. There shall be a five-year forecast of the operational costs and capital construction costs, which shall be submitted to the general assembly no later than January 1 of each year, commencing January 1, 1975.

(f) To decide interinstitutional disputes presented to the Auraria board by any one or more of the constituent institutions pursuant to section 23-70-106.5; and

(g) To investigate supplementary or alternative methods for delivery of selected higher educational services through the use of existing campuses and facilities in Denver and the metropolitan area.

**Source:** **L. 74:** Entire article added, p. 391, § 1, effective May 13. **L. 85:** (1)(f) amended, p. 770, § 29, effective July 1. **L. 88:** (1)(a) amended, p. 868, § 1, effective April 7. **L. 93:** (1)(c) amended, p. 1824, § 4, effective June 6.

**23-70-105. General powers of the Auraria board.** (1) The Auraria board is a body corporate by the name and style of the board of directors of the Auraria higher education center and, as such and by its said name, has the power to:

- (a) Sue or be sued to the extent permitted by law;
- (b) Contract or be contracted with;
- (c) Acquire, hold, lease as lessor or lessee, or dispose of property, both real and personal;
- (d) Have a common seal which it may change and alter at its pleasure;
- (e) Elect officers of the board, appoint a chairman, and promulgate bylaws and rules of procedure to govern the transaction of its business as provided in this article;
- (f) Employ, within funds appropriated for such purpose or otherwise made available therefor, such employees as are necessary to perform the functions and carry out the duties of the Auraria board, including an executive vice-president for administration who shall be the chief executive officer for operations at the Auraria campus;
- (g) Assess, after approval of the governing boards of the constituent institutions, a special student fee, which may be pledged as provided in section 23-70-108 and shall be collected as prescribed by the Auraria board; and
- (h) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to approve special districts wholly contained within the boundaries of the center in accordance with section 32-1-204.5, C.R.S., as if the board were a municipal corporation.

**Source:** **L. 74:** Entire article added, p. 392, § 1, effective May 13. **L. 88:** (1)(c) amended, p. 868, § 2, effective April 7. **L. 89:** (1)(f) amended, p. 1015, § 4, effective July 1. **L. 2008:** (1)(f) and (1)(g) amended and (1)(h) added, p. 1079, § 3, effective May 22.

**23-70-105.5. Public-private developments - definitions.** (1) As used in this article, unless the context otherwise requires, “complementary facility” means a facility, located at or within the center, that may provide moneys for the center, provide occupational and educational opportunities consistent with the respective missions of the constituent institutions, or facilitate integration of the center with the adjacent Denver area. “Complementary facility” may include, but need not be limited to, an office, retail, restaurant, residential, or mixed-use facility.

(2) The Auraria board shall have the power and authority to develop, construct, hold, lease, and dispose of complementary facilities and to facilitate the development and construction of complementary facilities by entering into leases or other contractual arrangements with private persons or entities.

(3) The Auraria board shall have the same powers with respect to a complementary facility as it has with respect to auxiliary facilities under this article and under article 5 of this title.

(4) Without limiting the scope of any other power granted to the Auraria board in this article, the Auraria board shall have the power and authority to enter into one or more ground leases for portions of the center with private persons or entities, which lease shall require the lessee to develop a complementary facility upon the leased premises. The Auraria board shall not subordinate its interest in land subject to such a ground lease but may enter into attornment and nondisturbance agreements with any party providing financing to the lessee.

(5) Any moneys derived from a complementary facility shall be devoted first to payment of any debt service on bonds that are secured by the moneys and all expenses connected with the complementary facility and then to furthering the mission of the Auraria board and the center, including but not limited to applying the moneys pursuant to subsection (3) of this section. Moneys derived from a complementary facility shall be



continuously appropriated to the Auraria board and shall remain in the control of the Auraria board and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

**Source: L. 2008:** Entire section added, p. 1079, § 4, effective May 22.

**23-70-106. Auraria board to have certain powers similar to powers exercised by the governing bodies of other state institutions of higher education.** (1) The Auraria board may exercise the following powers to the same extent and in the same manner as may be provided or extended by law to the governing boards of state institutions of higher education:

(a) To promulgate rules and regulations for the safety of students, employees, and property located within the center;

(b) To promulgate rules and regulations providing for the operation and parking of vehicles upon the grounds, driveways, or roadways within the center under the control of the Auraria board;

(c) To cede jurisdiction for the enforcement of traffic laws;

(d) To institute and carry out a system of registration and identification of vehicles owned or operated by students, faculty, and staff attending or employed by the constituent institutions and the Auraria staff located at the center; and

(e) To receive gifts and bequests of money or property which may be tendered to the Auraria board.

**Source: L. 74:** Entire article added, p. 393, § 1, effective May 13.

**23-70-106.5. Resolution of disputes at Auraria center.** (1) After notification to the affected chief executive officers, which notification provides for a deadline of not more than ten days for the resolution of a dispute, the chief executive officer of any governing board at the Auraria center, including the Auraria board, may request the Colorado commission on higher education to resolve a conflict concerning an academically related issue at the Auraria center. The commission shall have the authority to make the final decision to resolve the issue presented to it or may delegate its responsibility and authority for the final decision of the issue to the Auraria board. The decision of either the commission or the Auraria board shall be binding on all of the governing boards and institutions and on the Auraria board. It is the policy of the general assembly that the commission is encouraged to delegate to the Auraria board, to as great an extent as possible, its authority for making final decisions at the Auraria center.

(2) The chief executive officer of any governing board at the Auraria center, including the Auraria board, may request the Auraria board to resolve a conflict concerning the operation, administration, or use of the physical facilities at the Auraria center. The Auraria board shall have the authority to make the final decision to resolve the issue presented to it, and such decision shall be binding on all of the governing boards and institutions and on the Auraria board.

(3) All issues involving interinstitutional disputes at the Auraria center shall be considered as either academically related or operationally related, and the commission is authorized to determine whether it or the Auraria board shall have jurisdiction in regard to the resolution of the dispute.

**Source: L. 85:** Entire section added, p. 770, § 30, effective July 1.

**23-70-107. Borrowing funds for auxiliary or complementary facilities.** (1) For the purposes of obtaining funds for constructing, otherwise acquiring, and equipping auxiliary facilities, as defined in section 23-5-101.5 (2) (a), for the use of students and employees at the center, the Auraria board is authorized, after approval by the Colorado commission on higher education and subsequent affirmative vote by the combined student bodies of the Auraria campus if student fees are to be used in financing such projects, to enter into

contracts with any one or more persons or corporations or state or federal government agencies for the advancement of moneys for such purposes and to provide for the repayment of such advancements with interest at a specified net effective interest rate.

(2) The Auraria board, by resolution, may issue revenue bonds on behalf of any auxiliary facility or group of auxiliary facilities managed by the Auraria board for the purpose of obtaining funds for constructing, otherwise acquiring, equipping, or operating such auxiliary facility or group of auxiliary facilities. Any bonds issued on behalf of any auxiliary facility or group of auxiliary facilities other than dining facilities, recreational facilities, health facilities, parking facilities, student center facilities, or research facilities which are funded from a revolving fund may be issued only after approval by both houses of the general assembly either by bill or by joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. Bonds issued pursuant to this subsection (2) shall be payable only from revenues generated by the auxiliary facility or group of auxiliary facilities on behalf of which such bonds are issued. Such bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

(3) The Auraria board, by resolution, may issue revenue bonds secured by a pledge of lease payments or any other revenues derived from a complementary facility or group of complementary facilities for the purpose of raising moneys for constructing or otherwise acquiring and equipping any facility necessary or useful to the accomplishment of the mission of the Auraria board and the center. Bonds issued pursuant to this subsection (3) shall be payable only from revenues generated by the lease payments or by the complementary facility or group of complementary facilities that are subject to the pledge. The bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

(4) The Auraria board, by resolution, may issue revenue bonds secured by a pledge of rental payments or other payments to be received from a constituent institution or constituent institutions. The Auraria board shall use the proceeds of said bonds to acquire, construct, or equip any physical plant, facility, building, or ground within the center for the use of one or more constituent institutions pursuant to section 23-70-104. Bonds issued pursuant to this subsection (4) shall be payable only from payments received by the Auraria board from the constituent institutions for the acquisition, construction, or equipping of the physical plant, facility, building, or ground for which the bonds are issued. The bonds shall be issued in accordance with the provisions of section 23-70-108 (2).

**Source:** **L. 74:** Entire article added, p. 393, § 1, effective May 13. **L. 75:** Entire section amended, p. 746, § 1, effective April 9. **L. 93:** Entire section amended, p. 1824, § 5, effective June 6. **L. 2008:** (3) and (4) added, p. 1080, § 5, effective May 22.

**23-70-108. Pledge of income.** (1) When the Auraria board enters into a contract for the advancement of moneys described in section 23-70-107, the board is authorized, in connection with or as a part of such contract, to pledge special student fees or the net income derived or to be derived from such land or facilities so constructed, acquired, and equipped or special student fees and said net income as security for the repayment of the moneys advanced therefor, together with interest thereon, and for the establishment and maintenance of reserves in connection therewith; and, for the same purpose, the Auraria board is also authorized to use the net income derived from the Tivoli brewery and parking areas associated with the Tivoli brewery and to pledge the net income derived from any other auxiliary facility which is not individually designated as an enterprise and which is not acquired and not to be acquired with moneys appropriated to the Auraria board by the state of Colorado and to pledge the net income, fees, and revenues derived from said sources, if such be unpledged, or, if pledged, the net income, fees, and revenues currently in excess of the amount required to meet principal, interest, and reserve requirements in connection with outstanding obligations to which such net income, fees, and revenues have theretofore been pledged.

(2) Any advancement of moneys may be evidenced by interim warrants, if necessary, and bonds to be executed by and on behalf of the Auraria board containing such terms and provisions, including provisions for redemption prior to maturity, as may be determined by the Auraria board. Such warrants or bonds may, at the discretion of the Auraria board, be



registrable as to principal or interest, or both, and shall never be sold at less than ninety-five percent of the principal amount thereof and accrued interest thereon to the date of delivery or at a price which will result in a net effective interest rate which exceeds that specified in the contract for the advancement of moneys. Any of the warrants or bonds of the Auraria board issued pursuant to this section or any other law may be refunded pursuant to article 54 of title 11, C.R.S., if in the judgment of the Auraria board such refunding shall be to its best interests. Such refunding obligations may be made payable from any source which may be legally pledged for the payment of the obligations being refunded at the time of the issuance of the obligations so refunded or from any of the sources described in subsection (1) of this section, notwithstanding that the pledge for the payment of the outstanding obligations being refunded is thereby modified.

(3) In the event that the pledged net income, fees, and revenues exceed the amount required to meet principal, interest, and reserve requirements in connection with revenue bonds of the institution to which such income has been pledged, the Auraria board may retain such surplus and utilize the same for such purposes as in its judgment shall be in the best interests of the center, including, but not limited to, rehabilitation, alteration, addition to, or equipping of any existing auxiliary facilities, as defined in section 23-5-101.5 (2) (a), acquired pursuant to the provisions of this section and the acquisition of sites for the construction, acquisition, and equipping of additional auxiliary facilities pursuant to such provisions or for prior redemption of outstanding bonds. Use of such surplus shall be reviewed in advance by the student advisory committee to the Auraria board.

(4) Anticipation warrants or bonds issued pursuant to this section may be used as security for any depository bond or obligation where any kind of bond or other security must or may, by law, be deposited as security.

**Source:** L. 74: Entire article added, p. 393, § 1, effective May 13. L. 75: (1) amended, p. 746, § 2, effective April 9. L. 86: (1) amended, p. 842, § 1, effective April 3. L. 93: (1) and (3) amended, p. 1824, § 6, effective June 6.

**23-70-109. No property lien.** The Auraria board shall not create a mortgage upon any property belonging to the board or to the state of Colorado or to any constituent institution, nor shall the state be obligated to secure or repay any funds advanced pursuant to the provisions of sections 23-70-107 and 23-70-108 or the interest on such funds.

**Source:** L. 74: Entire article added, p. 394, § 1, effective May 13.

**23-70-110. Tax exemption.** Any bonds, certificates, or warrants issued pursuant to the provisions of sections 23-70-107 and 23-70-108 by the Auraria board shall be exempt from taxation for any state, county, school district, special district, municipal, or other purpose in the state of Colorado.

**Source:** L. 74: Entire article added, p. 394, § 1, effective May 13.

**23-70-111. Certain debts and expenses prohibited.** The Auraria board is prohibited from creating any debt as against the state of Colorado or the governing boards of the constituent institutions or from incurring any expense beyond its ability to pay the same from the annual income or appropriated funds for the then current year.

**Source:** L. 74: Entire article added, p. 394, § 1, effective May 13.

**23-70-112. Limitation of actions.** No action shall be brought questioning the legality of any contract, proceeding, or warrants or bonds executed or to be executed by the Auraria board in connection with the provision of any auxiliary facilities, as defined in section 23-5-101.5 (2) (a), provided or to be provided for the purposes authorized by this article after thirty days have expired after the effective date of any resolution or other official action authorizing such contract, adopting such proceedings, or authorizing the issuance of such warrants or bonds.

**Source: L. 74:** Entire article added, p. 394, § 1, effective May 13. **L. 75:** Entire section amended, p. 747, § 3, effective April 9. **L. 85:** Entire section amended, p. 1361, § 16, effective June 28. **L. 93:** Entire section amended, p. 1825, § 7, effective June 6.

**23-70-113. Possible change of Auraria higher education center. (Repealed)**

**Source: L. 79:** Entire section added, p. 840, § 1, effective June 15. **L. 82:** Entire section repealed, p. 624, § 22, effective April 2.

**23-70-114. Powers of board not limited.** Subject to the approval of the Colorado commission on higher education, the Auraria board may exercise any and all powers conferred by this article with respect to any land or facility not otherwise a part of the Auraria center. Nothing in this section shall be construed to limit the powers of governing boards of constituent institutions to acquire or dispose of facilities not otherwise part of the Auraria center; however, any building or facility acquired by a constituent institution in support of academic programs shall be subject to the approval of the Auraria board, including the renewal of existing leases.

**Source: L. 88:** Entire section added, p. 868, § 3, effective April 7.

**23-70-115. Directive - master plans.** (1) In order to maximize economic and administrative efficiency at the Auraria center and to further the goals articulated in section 23-1-101, the general assembly finds it necessary that there be comprehensive academic and facilities master planning for the use and development of the Auraria center constituent institutions. Therefore, the governing boards of the constituent institutions and the Auraria board, in consultation with the Colorado commission on higher education, shall prepare comprehensive master plans according to the following requirements and schedule:

(a) On or before a date to be set by the Colorado commission on higher education, and in accordance with commission policies and procedures, the commission shall coordinate, and the governing boards of the constituent institutions shall submit to the commission, academic master plans for the constituent institutions. The coordinated academic master plans shall address all Auraria multiinstitutional issues that the commission determines to be relevant to the role and mission of each institution and academic program requirements for fulfilling that role and mission.

(b) The commission shall review the master plans and shall, after consultation with the governing boards, order revisions to the extent that the plans fail to maximize efficiency and academic program effectiveness. When approved by the commission, the academic master plans shall be submitted to the Auraria board which shall prepare a comprehensive facilities master plan for the Auraria constituent institutions. The facilities master plan shall be submitted to the commission at a date to be established by the commission.

**Source: L. 88:** Entire section added, p. 869, § 4, effective April 7. **L. 2000:** (1)(b) amended, p. 2446, § 8, effective August 2.

**23-70-116. Auraria library - economic development data base.** (1) The library located at the center, which is administered by the university of Colorado at Denver and which serves Metropolitan state university of Denver and the community college of Denver, is hereby designated and shall be the site of the state economic development data base. The library shall compile data which is useful and relevant to persons concerned with economic development in the state, including but not limited to statistical and demographic profiles of Colorado communities, labor and market statistics, statutory and regulatory requirements for business formation, and such other information as will assist the creation, expansion, and relocation of business in Colorado. The library is authorized to receive and expend all moneys, public and private, tendered to it for the performance of its duties under this section. The department of local affairs shall assist the library in the performance of such duties.



(2) No policy shall be established that would prevent equal access by any individual or organization in the state of Colorado to the data base relating to economic development.

**Source:** **L. 88:** Entire section added, p. 870, § 1, effective April 20. **L. 90:** (1) amended, p. 1156, § 13, effective July 1. **L. 2012:** (1) amended, (SB 12-148), ch. 125, p. 428, § 18, effective July 1.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (1), see section 1 of chapter 125, Session Laws of Colorado 2012.

ARTICLE 71

Junior Colleges

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## PART 1

## JUNIOR COLLEGES - ORGANIZATION

**Editor's note:** This part 1 is similar to article 70 of title 22 as it existed prior to 1975.

**23-71-101. Short title.** This part 1 shall be known and may be cited as the "Junior College Organization Act".

**Source: L. 75:** Entire article added, p. 748, § 1, effective July 1.



**23-71-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Junior college" means an educational institution that provides not more than two years of training in the arts, sciences, and humanities beyond the twelfth grade of the public high school curriculum or vocational education and that conducts occupational, technical, and community service programs, with no term limitations, and general education, including college transfer programs, with unrestricted admissions; except that Colorado mountain college, in addition to its mission as a junior college, may also offer no more than five baccalaureate degree programs as its board of trustees determines appropriate to address the needs of the communities within its service area and that are approved by the Colorado commission on higher education.

**Source:** L. 75: Entire article added, p. 748, § 1, effective July 1. L. 83: (1) amended, p. 820, § 2, effective July 1. L. 2010: Entire section amended, (SB 10-101), ch. 335, p. 1538, § 2, effective May 27.

**Cross references:** For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 335, Session Laws of Colorado 2010.

**23-71-103. Districts organized - when.** Junior college districts in Colorado may be organized in an area approved for organization by the state board for community colleges and occupational education. The area to be approved for organization shall also have a twelfth-grade school population, as determined by the immediately preceding school census, of four hundred or more and a valuation for assessment at the time of organization of such district of sixty million dollars or more. A district may be entirely within one county or partly in two or more counties. Any existing school districts shall be entirely included or entirely excluded.

**Source:** L. 75: Entire article added, p. 748, § 1, effective July 1.

**23-71-104. Petition of electors.** A junior college district may be formed upon the petition of five hundred eligible electors residing in the area of the proposed district and having the qualifications prescribed in section 23-71-107. If the petition is for the formation of a junior college district consisting of an area within a single county, it shall be filed with the county clerk and recorder of the county, and, if the petition is for the formation of a junior college district situated in two or more counties, the petition shall be filed with the secretary of state. Each petition shall specify whether a five-member board or a seven-member board shall be elected as the first board of trustees following a successful election to organize the junior college district.

**Source:** L. 75: Entire article added, p. 749, § 1, effective July 1. L. 86: Entire section amended, p. 846, § 6, effective July 1. L. 92: Entire section amended, p. 848, § 49, effective January 1, 1993.

**23-71-105. Election to organize.** Upon receipt of the petition provided in section 23-71-104, the county clerk and recorder or, in the event the proposed district is situated in two or more counties, the secretary of state shall review the petition to determine whether it contains the number of signatures required for an organizational election. In the event that the petition contains the requisite number of signatures, the county clerk and recorder or secretary of state shall give notice to the school electors residing in the area of the proposed district that at the next regular biennial school election, or at a special election which is requested in the petition, the question of organizing a junior college district will be submitted to the eligible electors of the respective school districts located in the area of the proposed junior college district.

**Source:** L. 75: Entire article added, p. 749, § 1, effective July 1. L. 86: Entire section R&RE, p. 846, § 7, effective July 1. L. 92: Entire section amended, p. 848, § 50, effective January 1, 1993.

**23-71-106. Notice to be given - when. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 749, § 1, effective July 1. **L. 86:** (3) amended, p. 846, § 8, effective July 1. **L. 92:** Entire section repealed, p. 849, § 51, effective January 1, 1993.

**23-71-107. Qualifications of voters - conduct of elections.** (1) An eligible elector is an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the proposed junior college district. All elections authorized under this article shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S. The county clerk and recorder in each county in which a part of the district is located shall be the designated election official for an organizational election. Thereafter the designated election official shall be the secretary of the board, unless otherwise provided by the board.

(2) (Deleted by amendment, L. 92, p. 849, § 52, effective January 1, 1993.)

**Source:** **L. 75:** Entire article added, p. 749, § 1, effective July 1. **L. 86:** (1) amended, p. 846, § 9, effective July 1. **L. 92:** Entire section amended, p. 849, § 52, effective January 1, 1993.

**23-71-108. Certification of returns. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 750, § 1, effective July 1. **L. 86:** Entire section amended, p. 846, § 10, effective July 1. **L. 92:** Entire section repealed, p. 850, § 53, effective January 1, 1993.

**23-71-109. Record of votes.** (1) If the proposed junior college district is situated entirely within one county and a majority of the votes cast on the question of organizing a junior college district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(2) If the proposed junior college district is situated in two or more counties, the respective county clerk and recorders, within ten days after the election, shall determine the results from the counties and shall certify the results to the secretary of state who shall survey the results. If a majority of all votes cast in the proposed district are in favor of the organization, the district shall be formed in accordance with the provisions of this part 1.

(3) If it appears that one-half or more of the votes cast are not in favor of the organization, the district shall not be organized; but the provisions of this section shall not be construed to prevent the filing of a subsequent petition for the formation of a similar junior college district.

**Source:** **L. 75:** Entire article added, p. 750, § 1, effective July 1. **L. 76:** (1) and (2) amended, p. 305, § 39, effective May 20. **L. 86:** Entire section amended, p. 847, § 11, effective July 1. **L. 92:** Entire section amended, p. 850, § 54, effective January 1, 1993.

**23-71-110. Election of board - members and terms.** (1) Each public junior college district established under the provisions of this part 1 shall have a board of control, known as the board of trustees, consisting of either five members or seven members elected at public elections for staggered terms of four years each. The first board of trustees shall be elected in the manner provided in section 23-71-111. Thereafter, regular elections of board members shall be held in accordance with subsection (2) of this section.

(2) The regular election of the members of a board of trustees shall be held on the first Tuesday after the first Monday in November in odd-numbered years, as provided by law for regular biennial school elections in school districts. Special elections shall be held on the first Tuesday after the first Monday in February, May, September, or December.

(3) The board of trustees of each junior college district existing on or after July 1, 1984, and before July 1, 1986, shall determine whether the board of trustees shall consist of five members or seven members. The board of trustees of each junior college district created



after July 1, 1986, shall consist of a five-member or seven-member board as specified in the organization petition. The board of trustees of each junior college district shall determine the number of vacancies existing and the length of term of each vacancy for the next and subsequent regular elections for board members. Except for the election of members who were appointed pursuant to subsection (8) of this section and section 23-71-121, this shall be done so that there will be no more than three vacancies at any regular election for a five-member board and four vacancies at any regular election for a seven-member board and so that each board member will have a term of four years.

(4) A board of trustees may establish board member districts for its junior college district if it determines that such districts are in the best interests of the junior college district. Such board member districts shall be established on the basis of nearly equal population or on the basis of geography and population if the junior college district consists of more than one county.

(5) Members of a board of trustees shall be elected at the regular biennial school election of school districts within the junior college district. Any person desiring to be a candidate for the office of trustee shall file a petition for nomination pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S. The election shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The secretary of the board of trustees shall be the designated election official responsible for the election.

(6) (Deleted by amendment, L. 92, p. 851, § 55, effective January 1, 1993.)

(7) The cost of the election of members of the board of trustees as provided in this section shall be paid by the junior college district in which the elections are conducted, or, in the event of a coordinated election, the costs shall be allocated pursuant to sections 1-5-506 and 1-5-507, C.R.S.

(8) Each junior college district which has a five-member board of trustees may increase the board membership to seven members at any time by the appointment of two new members. Each person appointed pursuant to this subsection (8) shall be appointed at least one hundred twenty days prior to the next regular biennial junior college election and shall serve only until such election and until his successor has been elected and has qualified.

**Source:** L. 75: Entire article added, p. 751, § 1, effective July 1. L. 84: Entire section amended, p. 646, § 1, effective July 1. L. 86: (1) to (3) amended and (8) added, p. 848, § 12, effective July 1. L. 92: (2) and (5) to (7) amended, p. 851, § 55, effective January 1, 1993. L. 93: (7) amended, p. 1437, § 130, effective July 1.

**23-71-111. Election of first board - new district.** (1) In all junior college districts organized under the provisions of this part 1 or other applicable statutes on or after July 1, 1984, the first board of trustees shall be elected in the following manner:

(a) An election for members of the first board shall be called within sixty days of the successful election to organize the junior college district.

(b) At the election, a five-member board or a seven-member board as specified in the organization petition shall be elected so that the first board members shall serve staggered terms and thereafter their successors in office shall serve staggered terms of four years.

(c) The county clerk and recorder of each county included in the new junior college district shall call and conduct such election in the manner provided in section 23-71-107.

(d) The costs of the election of board members as provided in this section shall be paid by the junior college district in which the elections are conducted.

**Source:** L. 75: Entire article added, p. 752, § 1, effective July 1. L. 84: IP(1), (1)(a), (1)(b), and (1)(d) amended, p. 648, § 2, effective July 1. L. 86: (1)(b) amended, p. 848, § 13, effective July 1. L. 92: Entire section amended, p. 852, § 56, effective January 1, 1993.

#### **23-71-112. Precincts and polling places. (Repealed)**

**Source:** L. 75: Entire article added, p. 752, § 1, effective July 1. L. 86: (1)(a) and (1)(b) amended, p. 849, § 14, effective July 1. L. 92: Entire section repealed, p. 852, § 57, effective January 1, 1993.

**23-71-113. Judges. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 753, § 1, effective July 1. **L. 86:** (1) amended, p. 849, § 15, effective July 1. **L. 92:** Entire section repealed, p. 853, § 5, effective January 1, 1993.

**23-71-114. Candidates for board of trustees.** Any person who desires to be a candidate for the junior college board of trustees and who is an eligible elector in the junior college district shall file a petition for nomination pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S.

**Source:** **L. 75:** Entire article added, p. 754, § 1, effective July 1. **L. 86:** Entire section amended, p. 849, § 16, effective July 1. **L. 92:** Entire section amended, p. 854, § 59, effective January 1, 1993.

**23-71-115. Notice of election. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 754, § 1, effective July 1. **L. 86:** Entire section amended, p. 850, § 17, effective July 1. **L. 92:** Entire section repealed, p. 854, § 60, effective January 1, 1993.

**23-71-116. Ballots, ballot boxes, voting machines, and electronic voting equipment. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 754, § 1, effective July 1. **L. 80:** (2) amended, p. 409, § 10, effective January 1, 1981. **L. 81:** (2) amended, p. 2028, § 29, effective July 14. **L. 86:** (1) amended, p. 850, § 18, effective July 1. **L. 92:** Entire section repealed, p. 854, § 61, effective January 1, 1993.

**23-71-117. Qualification of voters. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 850, § 19, effective July 1. **L. 92:** Entire section repealed, p. 855, § 62, effective January 1, 1993.

**23-71-118. District officers.** Within ten days after the election of any junior college board of trustees, said board shall meet and select from among its members a president, a secretary, and a treasurer, who shall serve until the first meeting of said board following the election for members of said board.

**Source:** **L. 75:** Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 851, § 20, effective July 1.

**23-71-119. Regular meetings.** The regular meetings of the junior college board of trustees shall be held as the board shall decide; except that there shall be no less than four regular meetings each year. Additional or special meetings may be held upon call of the president or a majority of the board. The secretary of the board shall notify the members of all meetings. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this section governing the location of meetings may be waived only if the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board and if a resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this section and further stating the date, time, and place of such meeting.



**Source: L. 75:** Entire article added, p. 755, § 1, effective July 1. **L. 86:** Entire section amended, p. 851, § 21, effective July 1. **L. 90:** Entire section amended, p. 1496, § 2, effective July 1.

**23-71-120. District - body corporate.** Each regularly organized junior college district which may be formed as provided in this part 1 is declared to be a body corporate, by the name and style of "..... Junior College District", and in that name may hold property and be a party to suits and contracts, the same as municipal corporations in this state.

**Source: L. 75:** Entire article added, p. 755, § 1, effective July 1.

**23-71-120.5. Recall of board members.** (1) Any board member may be recalled from office at any time. Any recall shall be initiated and conducted pursuant to part 1 of article 12 of title 1, C.R.S.

(a) to (d) (Deleted by amendment, L. 92, p. 855, § 63, effective January 1, 1993.)

(2) to (4) (Deleted by amendment, L. 92, p. 855, § 63, effective January 1, 1993.)

**Source: L. 90:** Entire section added, p. 1174, § 1, effective March 20. **L. 92:** Entire section amended, p. 855, § 63, effective January 1, 1993.

**23-71-121. Vacancies.** (1) An office of a board member shall be deemed vacant if the person who was duly elected or appointed to the board:

(a) Does not attend three consecutive regular meetings of the board, unless such absence is excused by the board;

(b) Submits a written resignation to the board and such resignation is duly accepted by the board;

(c) Becomes a nonresident of the junior college district or board member district from which he was elected; or

(d) Dies during his term of office.

(2) At the next meeting of the board immediately following the occurrence of a vacancy, the board shall adopt a resolution declaring a vacancy in said office and shall appoint a person to fill the vacancy within sixty days after said vacancy has occurred. If the appointment is not made by the board within such sixty-day period, the president of the board shall forthwith appoint a person to fill the vacancy. The appointment shall be evidenced by an appropriate entry in the minutes of the meeting, and the board shall cause a certificate of appointment to be delivered to the person so appointed.

(3) If the vacancy occurs more than ninety days prior to the next regular biennial junior college election and the unexpired term is for more than two years, an appointee to the board shall serve until the next regular biennial junior college election and until the successor for the remainder of the term is elected and has qualified. If the vacancy occurs within the ninety-day period prior to a regular biennial junior college election and the unexpired term is for more than two years, an appointee to an office of the board shall serve until the next succeeding regular biennial junior college election at which a candidate for the board may lawfully be nominated pursuant to section 1-4-803 and part 9 of article 4 of title 1, C.R.S., and until a successor has been elected and has qualified. Except as otherwise provided in this subsection (3), an appointee to an office of the board shall serve the remainder of the unexpired term.

**Source: L. 75:** Entire article added, p. 755, § 1, effective July 1. **L. 80:** (3) amended, p. 409, § 11, effective January 1, 1981. **L. 86:** IP(1), (1)(a) to (1)(c), (2), and (3) amended, p. 851, § 22, effective July 1. **L. 92:** (3) amended, p. 857, § 64, effective January 1, 1993.

**23-71-122. Junior college board of trustees - specific powers - rules - definitions.**

(1) In addition to any other power granted by law to a board of trustees of a junior college district, each board shall have the power to:

(a) Take and hold in the name of the district so much real and personal property as may be reasonably necessary for any purpose authorized by law;

(b) Sue and be sued and be a party to contracts for any purpose authorized by law;

(c) Purchase real property on such terms, including but not limited to installment purchase plans, as the board sees fit or lease or rent real property on such terms as the board sees fit for any school sites, buildings, or structures or for any school purpose authorized by law; determine the location of each school site, building, or structure; and construct, erect, repair, alter, and remodel buildings and structures;

(d) Sell and convey district property which may not be needed within the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve; and lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same. No finding that the property may not be needed within the foreseeable future shall be necessary if the property is sold and conveyed to a state agency or political subdivision of this state.

(e) Rent or lease district property not immediately needed for its purposes for terms not exceeding three years and permit the use of district property by community organizations upon such terms and conditions as it may approve;

(f) Employ a chief executive officer to administer the affairs and the programs of the district, pursuant to a contract;

(g) Procure group life, health, or accident insurance covering employees of the district pursuant to section 10-7-203, C.R.S.;

(h) Provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties and reimburse a board member for necessary expenses incurred by him in the performance of his official duties, whether within or without the territorial limits of the district;

(i) Procure such insurance coverage on the building, structures, and equipment owned by the district, or in which the district has an insurable interest, as, in the judgment of the board, may be adequate from time to time;

(j) Procure such casualty insurance coverage on the personal property owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(k) Procure public liability insurance covering the district and the directors and employees thereof;

(l) Procure liability and property damage insurance on buses or motor vehicles owned or rented by the district and accident insurance covering the medical expenses incurred by any pupil who is injured while being furnished transportation by the district, including injury received in the course of entering or alighting from any school bus or other means of transportation furnished by the district;

(m) Elect to have moneys belonging to the district withdrawn from the custody of the county treasurer and paid over to the treasurer of the board in the manner provided by law;

(n) Accept gifts, donations, or grants of any kind made to the district and expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; but no gift, donation, or grant shall be accepted by the board if subject to any condition contrary to law;

(o) Authorize the use of facsimile signatures on teacher contracts, bonds, and bond coupons by appropriate resolution;

(p) Take and hold, under the provisions of any law in effect providing for the exercise of the rights of eminent domain, so much real estate as may be necessary for the location and construction of a junior college building and for the convenient use of said junior college;

(q) Contract with another junior college district or public school district or with the governing body of a state college or university, with the tribal corporation of any Indian tribe or nation, with any federal agency or officer or any county, city, or city and county, or with any natural person, body corporate, or association for the performance of any service, activity, or undertaking which any school may be authorized by law to perform or undertake. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall provide that



the service, activity, or undertaking be of comparable quality and meet the same requirements and standards as would be necessary if performed by the school district. A contract executed pursuant to this paragraph (q) may include, among other things, the purchase or renting of necessary building facilities, equipment, supplies, and employee services.

(r) Issue general obligation bonds, refund the same, and provide for the payment thereof by taxation for the purposes, to the extent, and in the manner provided by parts 5 and 6 of this article and pledge the revenues of the district as additional security for the payment of general obligation bonds. Each junior college district also has the power to issue general obligation refunding bonds to refund revenue bonds or to refund other revenue securities upon the approval of a majority of the eligible electors voting at an election called and held in the manner provided by part 5 of this article for elections on school building bonds.

(s) Cooperate with the state board for community colleges and occupational education in carrying out the provisions of the national and state vocational education and rehabilitation acts, or amendments thereto, or any such acts providing for vocational education or vocational rehabilitation of physically disabled persons;

(t) Enter into a contract for administrative services with a term not to exceed five years, for capital outlay purposes in accordance with paragraph (c) of this subsection (1) and parts 5, 6, and 7 of this article, or for the purchase of real property pursuant to paragraph (c) of this subsection (1). Any such contract shall be valid and enforceable between the parties to the contract.

(u) Adopt written policies, rules, and regulations, not inconsistent with law, which may relate to study, discipline, conduct, safety, and welfare of all students, or any classification of students, enrolled in the junior college and adopt written procedures not inconsistent with this article for the expulsion of or denial of admission to a student, which procedures shall afford due process to students and school personnel;

(v) (I) Determine the location of each school site, building, or structure and construct, erect, repair, alter, rebuild, replace, and remodel buildings and structures without a permit or fee or compliance with a local building code. The authority delegated by this subparagraph (I) shall exist notwithstanding any authority delegated to or vested in any county, town, city, or city and county. Prior to the acquisition of land for school building sites or the construction of buildings thereon, the board of trustees of a junior college district shall consult with the planning commission that has jurisdiction over the territory in which the site, building, or structure is proposed to be located, on issues related to the location of the site, building, or structure in order to ensure that the proposed site, building, or structure conforms to the adopted plan of the community insofar as is feasible. All buildings and structures shall be constructed in conformity with the building and fire codes adopted by the director of the division of fire prevention and control, referred to in this section as the "division", in the department of public safety. The board shall notify the planning commission that has jurisdiction over the territory in which a site, building, or structure is proposed to be located, in writing, of the location of the site, building, or structure before awarding a contract for the purchase or the construction thereof.

(II) (A) This paragraph (v) shall apply to building or structure construction. Except as specified in sub-subparagraph (A.5) of this subparagraph (II), the division shall conduct the necessary plan reviews, issue building permits, cause the necessary inspections to be performed, perform all final inspections, and issue certificates of occupancy to assure that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes adopted by the director of the division. Pursuant to this sub-subparagraph (A), the division may contract with third-party inspectors that are certified by the division in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. The junior college district may hire and compensate third-party inspectors under contract with the division to perform inspections or hire and compensate other third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. If the junior college district is unable to obtain a third-party inspector and no building department has been prequalified, the division shall perform the required inspections. If a third-party inspector is used, the director of the division shall require a sufficient number of inspection reports to be submitted to the

division based upon the scope of the project to ensure quality inspections are performed. The third-party inspector shall attest that inspections are complete before the junior college district is issued a certificate of occupancy unless the criteria for a temporary certificate of occupancy are met. Inspection records shall be retained by the third-party inspector for two years after the certificate of occupancy is issued. If the division finds that inspections are not completed satisfactorily, as determined by rule of the division, or that all violations are not corrected, the division shall take enforcement action against the junior college district pursuant to section 24-33.5-1213, C.R.S. If inspections are not complete and a building requires immediate occupancy, and if the junior college district has passed the appropriate inspections that indicate there are no life safety issues, the division may issue a temporary certificate of occupancy. The temporary certificate of occupancy shall expire ninety days after the date of occupancy. If no renewal of the temporary certificate of occupancy is issued or a permanent certificate of occupancy is not issued, the building shall be vacated upon expiration of the temporary certificate. The division shall enforce this sub-subparagraph (A) pursuant to section 24-33.5-1213, C.R.S.

(A.5) Pursuant to a memorandum of understanding between the appropriate building department and the division, the division may prequalify an appropriate building department to conduct the necessary plan reviews, issue building permits, conduct inspections, issue certificates of occupancy, and issue temporary certificates of occupancy pursuant to sub-subparagraph (A) of this subparagraph (II), to ensure that a building or structure has been constructed in conformity with the building and fire codes adopted by the director of the division, and to take enforcement action. Nothing in the memorandum of understanding shall be construed to allow the building department to take enforcement action other than in relation to the building and fire codes adopted by the division. An appropriate building department shall meet certification requirements established by the division pursuant to section 24-33.5-1213.5, C.R.S., prior to the prequalification. An affected junior college district may, at its own discretion, opt to use a prequalified building department that has entered into a memorandum of understanding with the division as the delegated authority. If a building department conducts an inspection, the building department shall retain the inspection records for two years after the final certificate of occupancy is issued. The fees charged by the department shall cover actual, reasonable, and necessary costs. For purposes of this section, "appropriate building department" means the building department of a county, town, city, or city and county and includes a building department within a fire department.

(B) The division shall cause copies of the building plans to be sent to the appropriate fire department for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within twenty business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans.

(C) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division shall perform the plan review or inspection. As used in this section, "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

(D) If the building or structure is in conformity with the building and fire codes adopted by the director of the division and if the fire department or the division certifies that the building or structure is in compliance with the fire code adopted by the director of the division, the division or the appropriate building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the junior college district.

(E) If the division authorizes building code inspections by a third-party inspector pursuant to sub-subparagraph (A) of this subparagraph (II) or authorizes building code plan reviews and inspections by an appropriate building department pursuant to sub-subparagraph (A.5) of this subparagraph (II), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subparagraph (II) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the third-party inspector or appropriate building depart-



ment does not conduct the plan reviews and inspections. Nothing in this paragraph (v) shall be construed to require a county, town, city, city and county, or fire department to conduct building code plan reviews and inspections.

(III) If the division conducts the necessary plan reviews and causes the necessary inspections to be performed to determine that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes adopted by the director of the division, the division shall charge fees as established by rule of the director of the division. Such fees shall cover the actual, reasonable, and necessary expenses of the division. Fees collected by the division pursuant to this subparagraph (III) shall be transmitted to the state treasurer, who shall credit the same to the public school construction and inspection cash fund created pursuant to section 24-33.5-1207.7, C.R.S. The director of the division, by rule or as otherwise provided by law, may increase or reduce the amount of the fees as necessary to cover actual, reasonable, and necessary costs of the division. The rules authorized by this paragraph (v) shall be promulgated in accordance with article 4 of title 24, C.R.S.

(IV) Any moneys remaining as of December 31, 2009, in the public safety inspection fund created in section 8-1-151, C.R.S., from fees collected by the division of oil and public safety in the department of labor and employment pursuant to subparagraph (III) of this paragraph (v) as it existed prior to January 1, 2010, shall be transferred to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(V) The inspecting entity shall cooperate with the affected board of trustees of a junior college district in carrying out the duties of this section.

(VI) If the inspecting entity and the board of trustees of a junior college district disagree on the interpretation of the codes and standards of the division, the division shall set a date for a hearing as soon as practicable before the board of appeals in accordance with section 24-33.5-1213.7, C.R.S., and the rules adopted by the division pursuant to article 4 of title 24, C.R.S.

(VII) School buildings shall be maintained in accordance with the fire code adopted by the director of the division pursuant to section 24-33.5-1203.5, C.R.S.

(w) Enter into a cooperative arrangement with the division of fire prevention and control in the department of public safety to develop a system in which a qualified volunteer firefighter may receive a tuition voucher to attend courses at a local community college, including Aims community college and Colorado mountain college, in accordance with section 24-33.5-1216, C.R.S.

(1.5) Notwithstanding the provisions of subsection (1) of this section, if Colorado Northwestern community college is accepted into the state system pursuant to section 23-71-207, the powers of the Rangely junior college district board of trustees shall be limited to those specified in section 23-71-207 (3) (a) (V).

(2) Nothing in this section shall authorize a junior college district to expend proceeds from the sale of general obligation or revenue bonds issued by said district to procure or erect a school or other building beyond the territorial limits of the district.

**Source:** **L. 75:** Entire article added, p. 756, § 1, effective July 1. **L. 83:** (1)(t) amended and (1)(v) added, p. 820, § 3, effective July 1. **L. 85:** (1)(t) amended, p. 734, § 6, effective May 31. **L. 86:** IP(1), (1)(c), (1)(h) to (1)(j), (1)(m), (1)(n), and (1)(v) amended, p. 852, § 23, effective July 1; (1)(v) amended, p. 500, § 119, effective July 1. **L. 92:** (1)(r) amended, p. 857, § 65, effective January 1, 1993. **L. 98:** (1.5) added, p. 902, § 4, effective May 26. **L. 2001:** (1)(v) amended, p. 1140, § 69, effective June 5. **L. 2006:** (1)(v) amended, p. 1359, § 4, effective July 1. **L. 2008:** (1)(v)(II), (1)(v)(III), (1)(v)(IV), and (1)(v)(VII) amended, p. 1088, § 2, effective August 5. **L. 2009:** (1)(w) added, (SB 09-021), ch. 414, p. 2288, § 2, effective August 5; (1)(v)(I), (1)(v)(II)(A), (1)(v)(II)(A.5), (1)(v)(II)(B), (1)(v)(II)(C), (1)(v)(II)(D), (1)(v)(III), (1)(v)(IV), (1)(v)(VI), and (1)(v)(VII) amended, (HB 09-1151), ch. 230, p. 1049, § 2, effective January 1, 2010. **L. 2011:** (1)(v)(II)(A) amended, (SB 11-251), ch. 240, p. 1044, § 5, effective June 30. **L. 2012:** (1)(v)(I) and (1)(w) amended, (HB 12-1283), ch. 240, p. 1132, § 43, effective July 1.

**Editor's note:** Amendments to subsection (1)(v) in Senate Bill 86-12 and House Bill 86-1133 were harmonized.

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1)(v)(I) and (1)(w), see section 1 of chapter 240, Session Laws of Colorado 2012.

### ANNOTATION

**The authority of the director of the division of labor to inspect school buildings** for fire prevention purposes or to issue fire code enforcement orders to junior college districts must be implied because it is not expressly granted by subsection (1)(v). *West Adams County Fire v. Adams County Sch. Dist. 12*, 926 P.2d 172 (Colo. App. 1996) (decided under the language of § 22-32-124 which is similar to the language of subsection (1)(v)).

**The authority of the director of the division of labor in § 8-1-107 (2)(d) to “enforce” the provisions of this section** is not exclusive but may also be taken by a fire protection district absent the junior college district’s exercise of authority to contract with a qualified fire inspector. *West Adams County Fire v. Adams County Sch. Dist. 12*, 926 P.2d 172 (Colo. App. 1996).

**23-71-123. Duties of board of trustees - degrees.** (1) It is the duty of the board of trustees to determine financial and educational policies and provide for the proper execution of such by selecting competent administrators, instructors, and other personnel for the administration, operation, and maintenance of the institution, to prepare and adopt a budget pursuant to part 1 of article 44 of title 22, C.R.S., to fix tuition and fee rates, to accept gifts, to purchase, hold, sell, or rent property and equipment, to promote the general welfare of the institution for the best interests of education and the junior college district, and, pursuant to contract and any other applicable provisions of law, to discharge or otherwise terminate the employment of any personnel.

(2) Notwithstanding the provisions of subsection (1) of this section, if Colorado Northwestern community college is accepted into the state system pursuant to section 23-71-207, the duties of the Rangely junior college district board of trustees shall be limited to those specified in section 23-71-207 (3) (a) (VII).

(3) A junior college may offer a two-year degree program with or without academic designation. Before a junior college offers a two-year degree program with academic designation, as authorized by this subsection (3), the junior college shall determine the program designation for the degree. The junior college shall then submit the degree program designation to the board of trustees for its review and approval. The junior college may offer the degree program only after it has been approved by the board of trustees and by the Colorado commission on higher education. The junior college shall exclusively use the degree program designation name in official publications, course catalogs, diplomas, and official transcripts.

**Source:** **L. 75:** Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 853, § 24, effective July 1. **L. 98:** Entire section amended, p. 902, § 5, effective May 26. **L. 2010:** (3) added, (SB 10-088), ch. 154, p. 531, § 4, effective August 11.

**23-71-124. President - duties.** The president of the board of trustees shall preside at all meetings of the board and shall sign all orders on the county treasurer for the payment of money; but no orders shall be drawn upon the county treasurer except in favor of parties to whom the junior college district has become lawfully indebted. He shall appear in behalf of the junior college district in all suits brought by or against the district, but, if the president is individually interested, this duty shall be performed by the secretary of the board. In the absence of the president, the secretary shall preside at any meeting of the board.

**Source:** **L. 75:** Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 25, effective July 1.

**23-71-125. Secretary - duties.** The secretary of the board of trustees shall keep an accurate record of the expenses incurred by the junior college district and shall present the



same to the board whenever called upon. He shall give the required notice of all regular and special meetings. He shall keep the same records and make the same reports as are required by law. Any of the special duties of the secretary may be delegated by the board to a paid secretary who may be appointed by the board.

**Source:** **L. 75:** Entire article added, p. 758, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 26, effective July 1.

**23-71-126. Treasurer - duties.** The treasurer of the board of trustees shall countersign all warrants drawn by the president and secretary on the county treasury and shall keep an account of the same. He shall take charge of all moneys received by the board on account of the junior college district. He shall render a statement of the finances of the district as shown by the records of his office at the close of each fiscal year and at any other time when required by the board. Financial statements and records of the junior college district shall be in accordance with the provisions of part 5 of article 1 of title 29, C.R.S. The treasurer shall perform such additional duties and be subjected to such additional obligations as are imposed by law.

**Source:** **L. 75:** Entire article added, p. 758, § 1, effective July 1. **L. 83:** Entire section amended, p. 822, § 4, effective June 1. **L. 86:** Entire section amended, p. 857, § 27, effective July 1.

**23-71-127. Credits accepted by state institutions.** Credits received by students attending junior colleges shall be accepted in full by other state institutions of higher education for provisional enrollment in such major courses for which courses the students in the junior college qualify.

**Source:** **L. 75:** Entire article added, p. 759, § 1, effective July 1.

**23-71-128. Additions to district - procedure.** (1) If any school district or group of districts adjacent to a junior college district desires to be annexed to the existing junior college district, it may do so by satisfying both of the following requirements:

(a) By obtaining approval of the existing junior college district. The approval shall be given only upon a majority vote of the eligible electors of the existing junior college district as expressed by a majority polled at the time of the regular biennial school election held in the junior college district. The election shall be called only upon the affirmative vote of the board of trustees.

(b) By the school district desiring to be annexed voting on the question of annexation at a regular biennial school election. The election shall be called only upon the affirmative vote of the school district board of education. If a single school district desires to be annexed, the annexation shall be effected by a majority vote of the eligible electors of the district. If two or more school districts desire annexation as a group, the annexation shall be effected only by a majority vote in favor thereof in each district desiring annexation. If there is not a majority vote in favor of the annexation in any district comprising the group, then the annexation shall not occur for the group of districts, but any individual district in the group which had a majority vote in favor of the annexation shall be annexed to the junior college district.

(2) If the town of Berthoud desires to be annexed to its existing junior college district, it may do so by satisfying both of the following requirements:

(a) By obtaining approval of the existing junior college district. Approval shall only be given upon a majority vote of the eligible electors of the existing junior college district as expressed by a majority polled at the time of the regular election held in the junior college district. The election shall be called only upon the affirmative vote of the board of trustees.

(b) By the town of Berthoud voting on the question of annexation at a regular election. The election shall only be called upon the affirmative vote of the governing body of the municipality, and the annexation shall be effected by a majority vote of the eligible electors of the municipality.

**Source:** **L. 75:** Entire article added, p. 759, § 1, effective July 1. **L. 81:** (1)(b) amended, p. 1123, § 1, effective April 30. **L. 86:** (1)(a) amended, p. 854, § 28, effective July 1. **L. 92:** Entire section amended, p. 857, § 66, effective January 1, 1993. **L. 2009:** (2) added, (HB 09-1079), ch. 66, p. 232, § 1, effective August 5. **L. 2010:** IP(1) and IP(2) amended, (HB 10-1422), ch. 419, p. 2081, § 57, effective August 11.

**23-71-129. Dissolution of district.** Any junior college district may be dissolved in the following manner: A plan for the dissolution of the junior college district may be submitted to the eligible electors of the junior college district at a special election held for that purpose. The plan shall provide for the payment of all district debts and liabilities and the distribution of all district assets. If the eligible electors authorize the dissolution by a vote of the majority of electors voting at the special election, the junior college board of trustees of the district shall proceed to carry out the plan so authorized and, upon accomplishment thereof, shall file its certificate of dissolution with the county clerk and recorder of the county wherein the district is situate. Thereupon the district shall be considered dissolved. If any property or funds remain in the hands of the board, credit after the dissolution of the property or funds shall be distributed as provided in the plan of dissolution for the distribution of the assets of the junior college district.

**Source:** **L. 75:** Entire article added, p. 759, § 1, effective July 1. **L. 86:** Entire section amended, p. 854, § 29, effective July 1. **L. 92:** Entire section amended, p. 858, § 67, effective January 1, 1993.

#### ANNOTATION

Where part of a mandamus petition asks for relief to which petitioner is entitled and other part asks for relief which petitioner cannot obtain, the petitioner is entitled to relief

based only on a portion of the petition. *Amichaux v. Bd. of Trustees of Colo. Mountain Junior Coll. Dist.*, 800 P.2d 1346 (Colo. App. 1990).

**23-71-130. Bonds as legal investments.** Any general obligation bonds issued or validated in accordance with the provisions of this article shall be eligible for any investment of proceeds which is a legal investment authorized by part 6 of article 75 of title 24, C.R.S., for school districts of this state.

**Source:** **L. 75:** Entire article added, p. 759, § 1, effective July 1. **L. 89:** Entire section amended, p. 1129, § 64, effective July 1.

**Cross references:** For the legality of school bonds as an investment, see part 6 of article 75 of title 24.

**23-71-131. Junior colleges subject to section 29-1-302.** For the purposes of section 29-1-302, C.R.S., a junior college district board of trustees shall not be deemed to be a school board.

**Source:** **L. 75:** Entire article added, p. 760, § 1, effective July 1. **L. 86:** Entire section amended, p. 855, § 30, effective July 1.

#### **23-71-132. Definition and interpretation of terms. (Repealed)**

**Source:** **L. 84:** Entire section added, p. 648, § 3, effective July 1. **L. 86:** Entire section repealed, p. 870, § 66, effective July 1.

**23-71-133. Approval of baccalaureate degrees.** (1) When approving baccalaureate degrees for Colorado mountain college pursuant to the authority in section 23-71-102 (1),



the Colorado commission on higher education shall make its determination based on the following criteria:

- (a) Whether Colorado mountain college can demonstrate workforce and student demand for the baccalaureate degree program by providing data;
- (b) Whether Colorado mountain college can demonstrate regional and professional accreditation requirements, when applicable, and compliance with those requirements as deemed appropriate at both the institutional and program levels;
- (c) Whether Colorado mountain college can demonstrate that its provision of the baccalaureate degree program is the most cost-effective method of providing the baccalaureate degree program in its service area; and
- (d) Whether Colorado mountain college can provide a cost-benefit analysis showing that the additional baccalaureate degree program will not create a negative impact for the college or require additional state-appropriated moneys to operate.

**Source:** **L. 2010:** Entire section added, (SB 10-101), ch. 335, p. 1539, § 3, effective May 27.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 335, Session Laws of Colorado 2010.

## PART 2

### LOCAL JUNIOR COLLEGES - STATE SYSTEM

**Editor's note:** This part 2 is similar to part 4 of article 60 of this title as said part 4 existed prior to 1975.

**23-71-201. Definitions.** As used in this part 2, unless the context otherwise requires:

- (1) "Board" means the state board for community colleges and occupational education created pursuant to section 23-60-104.
- (2) "Eligible elector" of a junior college district means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the junior college district.

**Source:** **L. 75:** Entire article added, p. 760, § 1, effective July 1. **L. 86:** (2) R&RE, p. 855, § 31, effective July 1. **L. 92:** (2) amended, p. 858, § 68, effective January 1, 1993.

**23-71-202. Joining state system - state support.** (1) Any junior college district organized or authorized to be organized under the provisions of this article may apply to the board to become a part of the state system as provided in this part 2; but this subsection (1) shall not apply to any junior college district organized on or after December 31, 1967, pursuant to title 22, C.R.S. 1973, or to this title unless the board has approved the district prior to its organization. The application shall include a plan of dissolution and report of finances as required by section 23-71-203 and shall be considered by the board and the Colorado commission on higher education as provided in section 23-71-204.

(2) In advance of entering the state system, junior college districts shall receive annually such state support for the education of Colorado resident students as is appropriated for operating purposes.

(3) Any local junior college district organized or authorized to be organized after July 1, 1967, which is not a part of the state system shall not be eligible to receive any state funds for capital construction purposes unless the board has approved the district prior to its organization.

(4) After the entry of any junior college district into the state system, no general property taxes shall be levied for the operational expenses of the junior college district; except that a tax levy shall be continued for the purposes of payment of any general obligation of the district, whether bonded indebtedness or otherwise, owed by the district and not assumed by the state.

**Source:** **L. 75:** Entire article added, p. 760, § 1, effective July 1.

**Editor's note:** The reference in subsection (1) to "any junior college district organized on or after December 31, 1967, pursuant to title 22, C.R.S. 1973" is to any junior college organized pursuant to article 70 of title 22 prior to its repeal on July 1, 1975.

**23-71-203. Submission of plan for joining state system.** (1) Any local junior college district desiring to become a part of the state system shall use the following procedures: The junior college board of trustees of the district shall submit to the board a plan of dissolution, together with a detailed report of the finances and programs of the existing junior college. The plan of dissolution shall be in such form as may be prescribed by the board. The plan shall provide for the transfer of district assets to the board and shall make provision for meeting all liabilities of the district through assumption by the board or by other lawful means which will not impair existing obligations of contract. Liabilities to be assumed by the board shall include all revenue bonds and other special obligations which by their terms are not payable from revenues derived from ad valorem taxes of the district (such obligations being sometimes collectively designated in this article as "revenue bonds"). The revenue bonds shall continue to be payable from the revenues designated therein and shall not become the general obligation of the board or of the state of Colorado. In each case where there exist outstanding general liabilities at the time of dissolution, the plan shall provide for continuing the tax levy within the boundaries of the dissolved district as may be necessary to retire all general liabilities, including without limitation all general obligation bonded indebtedness, both principal and interest. It is the intention of this part 2 that the general assembly will make timely appropriations for the retirement, and, to the extent moneys are thereby made legally available, the levy shall be diminished or eliminated. Notwithstanding any other provision of this part 2, no local junior college district shall be dissolved pursuant to this part 2 if, subsequent to May 27, 1967, it has incurred liabilities (evidenced by other than revenue bonds) for capital improvements without the approval of the board prior to the incurrence unless the liabilities have been fully paid as to principal and interest before the dissolution. The plan shall include a timetable for dissolution of the district and estimates of potential enrollment and operating and capital expenditures for a period of five years after dissolution. The date of dissolution and entry into the state system shall be the first day of July immediately following the survey of the dissolution election returns.

(2) (a) If the junior college board of trustees fails to submit a plan of dissolution on its own initiative within five years after May 27, 1967, the eligible electors of the junior college district may petition the board of trustees to submit a plan to the board. The petition shall be signed by at least five percent of the eligible electors residing within each county in the junior college district and shall be filed with the secretary of the junior college district. The signatures need not all be on one sheet of paper, but each sheet shall contain an oath, subscribed to by the person circulating the sheet, that the signatures thereon are genuine. Each person signing the petition shall add to the signature the date of the signing and the elector's place of residence. To the extent practicable, the provisions of article 40 of title 1, C.R.S., regarding circulation of petitions, elector information and signatures on petitions, and affidavits and requirements of circulators of petitions shall apply to petitions under this section.

(b) Upon receipt of the petition, the secretary shall refer the petition to the junior college board of trustees. The board shall, without undue delay, determine if the petition has been signed by the requisite number of eligible electors residing in each county of the junior college district. If the petition is found to contain the requisite number of signatures, the board of trustees shall proceed to develop and submit to the board within ninety days a plan of dissolution in accordance with the provisions of subsection (1) of this section. If the petition does not contain the requisite number of signatures, the board of trustees shall make the determination by written resolution.

(c) If a petition and plan of dissolution is submitted pursuant to this section and dissolution of the junior college district should not be effected because of rejection or nonapproval of the plan, or otherwise, at any stage of the process provided for by subsection (1) of this section and section 23-71-204, no further petition or plan of dissolution pursuant



to this section shall be submitted or accepted for a period of five years from the date of rejection or nonapproval or other action causing the prior plan of dissolution not to be effected.

**Source: L. 75:** Entire article added, p. 760, § 1, effective July 1. **L. 86:** Entire section amended, p. 855, § 32, effective July 1. **L. 92:** Entire section amended, p. 858, § 69, effective January 1, 1993. **L. 93:** (2) amended, p. 696, § 3, effective May 4; (2)(c) amended, p. 1798, § 106, effective June 6.

ANNOTATION

<b>Where part of a mandamus petition asks for relief to which petitioner is entitled and other part asks for relief which petitioner cannot obtain, the petitioner is entitled to relief</b>	based only on a portion of the petition. <i>Amichaux v. Bd. of Trustees of Colo. Mountain Junior Coll. Dist.</i> , 800 P.2d 1346 (Colo. App. 1990).
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**23-71-204. Approval of plan - election.** (1) The board shall review each application for admission to the state system to determine whether the plan and date of entry specified by the junior college district will best promote the orderly development of higher education and of the applicant institution. The board shall transmit to the junior college board of trustees any suggested changes in the plan within ninety days after the date of submission.

(2) When the board has approved the plan and date of entry, it shall forward the application to the Colorado commission on higher education for its action. The commission may approve the recommendation of the board. If the commission does not approve the entry into the state system, the board may require a joint meeting of the board and the commission to hear the reasons and to explain the position taken by the board. After review, the commission may reaffirm its position or take such other action as it deems appropriate. The board shall notify the junior college board of trustees of any action taken by the commission under this subsection (2).

(2.5) After the Colorado commission on higher education has approved the recommendation of the board, it shall forward such recommendation to the general assembly. If the general assembly, acting by bill, approves the entry of the district into the state system, the junior college board of trustees may call a special election pursuant to subsection (4) of this section. If the general assembly does not so approve such entry, it shall be deemed rejected, and the district shall not become a part of the state system.

(3) Except to the extent inconsistent with this part 2, the dissolution election shall be called, held, and canvassed by the board of trustees in substantially the same manner as provided for elections authorizing the issuance of junior college district general obligation bonds.

(4) When the Colorado commission on higher education, the board, and the general assembly have approved the application, the board of trustees shall call a special election at which only eligible electors of the district may vote. The question shall be:

Shall the \_\_\_\_\_ junior college district be dissolved, all assets transferred to the state board for community colleges and occupational education and provision made for meeting all liabilities as provided in the plan of dissolution by \_\_\_\_\_(date)?

Yes \_\_\_\_ No \_\_\_\_.

(5) If a majority of the eligible electors voting vote “yes”, the board of trustees and the board shall proceed with the transfer of all assets to the board and with all necessary steps to meet liabilities pursuant to the approved plan. If revenue bonds of the district remain outstanding or unpaid, the board as successor to the board of trustees and to the district shall continuously operate the college, pay principal and interest, and do all things in such manner as to fulfill the obligations of the district under existing resolutions and instruments constituting contracts among the district and bondholders and other contracting parties. Nothing in this part 2 shall impair or authorize the impairment of any obligation of contract.

The board shall serve ex officio as the board of trustees of the district until all existing general liabilities, including without limitation all general obligation bonded indebtedness and the interest thereon but not including revenue bonds, are paid, and, except as provided in this part 2, the levy required for the payment shall continue until the payment is made in full. General obligation bonds of a dissolved district may be refunded in the manner provided in part 6 of this article.

**Source: L. 75:** Entire article added, p. 761, § 1, effective July 1. **L. 85:** (2.5) added and (4) amended, p. 789, § 1, effective May 3. **L. 86:** Entire section amended, p. 856, § 33, effective July 1. **L. 92:** (4) and (5) amended, p. 860, § 70, effective January 1, 1993.

**23-71-205. Withdrawal from state system.** Any community college may withdraw from the state system and establish a junior college district pursuant to procedures established by the Colorado commission on higher education. The procedures shall provide for a vote by the eligible electors of the area proposed to be incorporated into a junior college district. The Colorado commission on higher education shall provide for the transfer of college property and liabilities to the district in the event of such a withdrawal and establishment.

**Source: L. 85:** Entire section added, p. 767, § 20, effective July 1. **L. 92:** Entire section amended, p. 860, § 71, effective January 1, 1993.

**23-71-206. Northeastern junior college - approval of plan - date of entry into state system - continuation of mill levy.** (1) (a) The general assembly hereby approves the plan of dissolution submitted by Northeastern junior college pursuant to section 23-71-203, referred to in this section as the "plan". Contingent upon approval of the plan in a special election held pursuant to section 23-71-204 and enactment of an appropriation of general fund moneys to the board for allocation to Northeastern junior college, whether in an annual general appropriations bill or by supplemental appropriation, the general assembly approves the entry of Northeastern junior college into the state system of community and technical colleges.

(b) Notwithstanding the provisions of section 23-71-204 (4), at the special election for approval of the plan, the question shall be:

Shall Northeastern junior college join the state system of community and technical colleges upon enactment of an appropriation to fund Northeastern junior college as part of the state system of community and technical colleges, and shall the Northeastern junior college district continue to collect property taxes for three years after the appropriation is enacted in the amount of 20.311 mills in year one, 18.000 mills in year two, and 16.000 mills in year three, after which time the Northeastern junior college district shall be dissolved, all assets be transferred to the state board for community colleges and occupational education, and provision be made for meeting all liabilities as provided in the plan of dissolution?

Yes \_\_\_ No \_\_\_.

(2) Notwithstanding the provisions of section 23-71-203 (1), if the plan is approved and moneys are appropriated as provided in subsection (1) of this section, Northeastern junior college shall enter the state system of community and technical colleges on the effective date of the appropriation, but the Northeastern junior college district shall continue as provided in subsection (3) of this section. On entry into the state system of community and technical colleges, Northeastern junior college shall be under the management and control of the board. On entry into the state system of community and technical colleges, the assets and liabilities of Northeastern junior college, with the exception of the property tax moneys collected and the physical education and events center built pursuant to subsection (3) of this section and the property on which said center is located, shall be transferred to the board; except that, if construction of the physical education and events center is completed prior to approval of the plan and appropriation of moneys pursuant to subsection (1) of this



section, the physical education and events center and the property on which said center is located shall be transferred to the board at the time Northeastern junior college enters the state system of community and technical colleges.

(3) (a) If the plan is approved and moneys are appropriated as provided in subsection (1) of this section, the Northeastern junior college district shall be dissolved three years after Northeastern junior college enters the state system of community and technical colleges. Prior to dissolution of the Northeastern junior college district and notwithstanding any other provisions of this part 2 to the contrary, the Northeastern junior college district shall continue to collect property tax in the district. Following approval of the plan, the mill levy imposed by the Northeastern junior college district shall not exceed the mill levy imposed for the tax year during which the plan is approved and may be reduced prior to dissolution of the district.

(b) Northeastern junior college district shall use a portion of the property tax moneys collected pursuant to this subsection (3) for construction of a physical education and events center on the Northeastern junior college campus, as provided in the plan; except that, if construction of the physical education and events center is completed prior to the time that the plan is approved and moneys are appropriated as provided in subsection (1) of this section, all of the property tax moneys collected pursuant to this subsection (3) shall be used as provided in paragraph (c) of this subsection (3).

(c) Northeastern junior college district shall use the property tax moneys collected pursuant to this subsection (3) that are not used for construction of the physical education and events center on the Northeastern junior college campus to assist residents of the Northeastern junior college district who are enrolled at Northeastern junior college in defraying any increases in tuition that may result from entry into the state system of community and technical colleges.

(d) On dissolution of the Northeastern junior college district, the physical education and events center built pursuant to paragraph (b) of this subsection (3), regardless of whether said center is completed, the property on which said center is located, and any moneys remaining under control of the district shall be transferred to the board.

**Source:** L. 96: Entire section added, p. 1040, § 1, effective May 23.

**23-71-207. Colorado Northwestern community college - approval of plan - date of entry into system - continuation of mill levy.** (1) (a) The general assembly hereby approves the plan submitted by Colorado Northwestern community college pursuant to section 23-71-203, referred to in this section as the "plan". Contingent upon approval of the plan at the November 1998 general election and enactment of an appropriation of general fund moneys to the board for allocation to Colorado Northwestern community college, whether in an annual general appropriations bill or by supplemental appropriation, the general assembly approves the entry of Colorado Northwestern community college into the state system of community and technical colleges.

(b) (I) Notwithstanding the provisions of sections 23-71-202 (4) and 23-71-204 (4), the ballot question submitted to the voters of the Rangely junior college district for the approval of the plan at the 1998 general election shall be:

Shall Colorado Northwestern community college join the state system of community and technical colleges upon enactment of an appropriation to fund Colorado Northwestern community college as a part of the state system of community and technical colleges, and shall the Rangely junior college district continue to collect property taxes after the appropriation is enacted in the amount of five mills, until such time as the Rangely junior college district board and the voters of the Rangely junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes plus the mill levy required for the continuation of the debt service on outstanding general obligation bonds previously approved by voters, and shall all assets be transferred to the state board for community colleges and occupational education, and provision be made for meeting all liabilities as provided in the plan?

Yes \_\_\_\_ No \_\_\_\_.

(II) At the 1998 general election, the voters of the Moffat county affiliated junior college district shall decide the following question:

If the majority of the voters of the Rangely junior college district approve Colorado Northwestern community college joining the state system of community and technical colleges and an appropriation is enacted for such purpose, shall the Moffat county affiliated junior college district, as part of the area served by Colorado Northwestern community college pursuant to the plan, continue to collect property taxes through the 2008 property tax year in the amount of three mills, until such time as the Moffat county affiliated junior college district board and the voters of the Moffat county affiliated junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes?

Yes \_\_\_\_ No \_\_\_\_.

(2) (a) Notwithstanding the provisions of section 23-71-203 (1), if the plan is approved by a majority of the voters in the Rangely junior college district and if moneys are appropriated as provided in subsection (1) of this section, Colorado Northwestern community college shall enter the state system of community and technical colleges on the effective date of the appropriation. The Rangely junior college district shall continue as provided in subsection (3) of this section. If a majority of the voters of the Moffat county affiliated junior college district approve the measure set forth in subparagraph (II) of paragraph (b) of subsection (1) of this section, the Moffat county affiliated junior college district shall continue as provided in subsection (4) of this section.

(b) Upon entry into the state system of community and technical colleges:

(I) Colorado Northwestern community college shall be under the management and control of the board;

(II) The assets and liabilities of Colorado Northwestern community college shall be transferred to the board in accordance with the plan; and

(III) The educational facilities of Colorado Northwestern community college shall be immediately eligible for state controlled maintenance funds.

(3) (a) If the plan is approved as specified in paragraph (a) of subsection (2) of this section and if moneys are appropriated as provided in subsection (1) of this section:

(I) The Rangely junior college district shall remain in existence;

(II) Notwithstanding any other provision of this part 2 to the contrary, the Rangely junior college district shall continue to collect property tax and specific ownership tax in the district. The Rangely junior college district in December, 1999, shall initially levy five mills for the purposes specified in subparagraph (III) of this paragraph (a) in addition to the mill levy required for debt service on outstanding general obligation bonds previously approved by voters;

(III) The Rangely junior college district shall use the revenues collected pursuant to this subsection (3), other than those collected for outstanding general obligation bonds previously approved, to:

(A) Assist residents of the Rangely junior college district who are enrolled at Colorado Northwestern community college in defraying increases in tuition that may result from entry into the state system of community and technical colleges;

(B) Provide supplemental funding to the state for the operating costs of current or future programs offered by Colorado Northwestern community college;

(C) Erect new or renovate existing facilities; and

(D) Provide capital funding for technology enhancement and supplemental equipment for Colorado Northwestern community college;

(IV) All assets and liabilities of the Rangely junior college district shall be transferred to the board; except that the outstanding general obligation bonds and associated debt service assets and liabilities of the Rangely junior college district in existence as of June 30, 1999, shall remain with such district and the Rangely junior college district shall administer the mill levy for the retirement of said bonds pursuant to section 23-71-204 (5);



(V) Notwithstanding the provisions of section 23-71-122, the Rangely junior college district board of trustees shall have only the powers necessary to levy taxes and distribute the revenues generated therefrom in accordance with the purposes listed in subparagraph (III) of this paragraph (a) and the powers enumerated in section 23-71-122 (1) (b), (1) (h), (1) (k), (1) (m), (1) (n), and (1) (q);

(VI) The Rangely junior college district board of trustees shall have no employees; and

(VII) Notwithstanding the provisions of section 23-71-123, the Rangely junior college district board of trustees shall have only the duty to prepare and adopt a budget pursuant to part 1 of article 44 of title 22, C.R.S., and any additional duties enumerated in the plan.

(b) Upon the future dissolution of the Rangely junior college district, any assets remaining as of the date of dissolution shall be transferred to the board.

(4) (a) (I) If the plan is approved and moneys are appropriated therefor as provided in subsection (1) of this section and if the voters of the Moffat county affiliated junior college district approve the ballot measure set forth in subparagraph (II) of paragraph (b) of subsection (1) of this section, the Moffat county affiliated junior college district shall remain in existence until January 1, 2009, on which date the Moffat county affiliated junior college district shall dissolve pursuant to subparagraph (V) of this paragraph (a). Prior to said date, the Moffat county affiliated junior college district, shall continue to collect property tax for a period not to exceed ten years in the initial amount of three mills. The Moffat county affiliated junior college district shall use the tax moneys collected pursuant to this subparagraph (I) to:

(A) Assist residents of the Moffat county affiliated junior college district who are enrolled at Colorado Northwestern community college in defraying increases in tuition that may result from entry into the state system of community and technical colleges;

(B) Provide supplemental funding to the state for the operating costs of current or future programs offered by Colorado Northwestern community college;

(C) Erect new or renovate existing facilities;

(D) Provide capital funding for technology enhancement and supplemental equipment for Colorado Northwestern community college; and

(E) Provide for the operating costs of the facilities owned by the Moffat county affiliated junior college district.

(II) Notwithstanding the provisions of section 23-72-121, the Moffat county affiliated junior college district board of control shall have only the powers necessary to levy taxes and distribute the revenues generated therefrom in accordance with the purposes listed in subparagraph (I) of this paragraph (a) and the powers enumerated in section 23-72-121 (2) (b), (2) (e), (2) (g), and (2) (k).

(III) The Moffat county affiliated junior college district board of control shall have no employees.

(IV) All assets and liabilities of the Moffat county affiliated junior college district shall be transferred to the board except the revenues generated pursuant to subparagraph (I) of this paragraph (a) and except for those assets specified in the plan.

(V) The Moffat county affiliated junior college district shall dissolve, as provided in section 23-72-120, on January 1, 2009. Upon dissolution of the Moffat county affiliated junior college district, all assets held by the district as of the date of the dissolution shall be transferred to the board.

(b) If the plan for Colorado Northwestern community college to join the state system of community and technical colleges is approved and moneys are appropriated therefor as provided in subsection (1) of this section but the voters of the Moffat county affiliated junior college district do not approve the ballot measure set forth in subparagraph (II) of paragraph (b) of subsection (1) of this section, the Moffat county affiliated junior college district shall select and adopt, within one year after such election, one of the following options concerning its governance and shall submit the selected option for approval by the board, the Colorado commission on higher education, and the voters of the Moffat county affiliated junior college district:

(I) The Moffat county affiliated junior college district shall dissolve pursuant to the provisions of section 23-72-120;

(II) The Moffat county affiliated junior college district shall affiliate with another local district college or state college with the consent of the parent institution; or

(III) Notwithstanding the provisions of section 23-71-103, the Moffat county affiliated junior college district shall form a local college district, with the consent of the board and the Colorado commission on higher education.

(5) (a) At the 2006 general election, the voters of the Moffat county affiliated junior college district shall decide the following question:

Shall the Moffat county affiliated junior college district, as part of the area served by Colorado Northwestern community college, continue indefinitely to collect property taxes in the amount of up to three mills, until such time as the Moffat county affiliated junior college district board and the voters of the Moffat county affiliated junior college district approve an increase in the mill levy, for tuition, supplemental program funding, and capital construction purposes?

Yes \_\_\_\_ No \_\_\_\_.

(b) If the ballot question set forth in paragraph (a) of this subsection (5) is rejected by the voters at the 2006 general election, the Moffat county affiliated junior college district board may resubmit the ballot question set forth in paragraph (a) of this subsection (5) to the voters of the Moffat county affiliated junior college district in the 2007 general election. If the ballot question set forth in paragraph (a) of this subsection (5) is rejected by the voters at the 2006 or 2007 general election, the Moffat county affiliated junior college district board may resubmit the ballot question set forth in paragraph (a) of this subsection (5) to the voters of the Moffat county affiliated junior college district in the 2008 general election.

(c) If a majority of voters of the Moffat county affiliated junior college district approve the measure set forth in paragraph (a) of this subsection (5), then, notwithstanding the provisions of subparagraphs (I) and (V) of paragraph (a) of subsection (4) of this section, the Moffat county affiliated junior college district shall not dissolve on January 1, 2009, but shall continue to exist and shall continue to collect property tax in the initial amount of three mills. The Moffat county affiliated junior college district shall use the property tax moneys collected pursuant to this paragraph (c) as provided in sub-subparagraphs (A) to (E) of subparagraph (I) of paragraph (a) of subsection (4) of this section.

(d) If a majority of the voters of the Moffat county affiliated junior college district approve the measure set forth in paragraph (a) of this subsection (5), the Moffat county affiliated junior college district board shall continue to exist subject to the restrictions specified in subparagraphs (II) and (III) of paragraph (a) of subsection (4) of this section.

(e) If a majority of the voters of the Moffat county affiliated junior college district do not approve the measure set forth in paragraph (a) of this subsection (5), then the Moffat county affiliated junior college district shall dissolve on January 1, 2009, as provided in subparagraphs (I) and (V) of paragraph (a) of subsection (4) of this section.

**Source: L. 98:** Entire section added, p. 897, § 1, effective May 26. **L. 2006:** (5) added, p. 162, § 1, effective March 31.

**23-71-208. Colorado Northwestern community college - disposal of assets.** Any aircraft or other equipment used by the Colorado Northwestern community college in its aviation-related programs may be disposed of by the state board for community colleges and occupational education, created in section 23-60-104, by sale, trade, or other method of disposal. Any proceeds from the disposal of such aircraft shall be the property of the state board for community colleges and occupational education for the use and benefit of Colorado Northwestern community college. The disposal of such aircraft or equipment shall be exempt from section 17-24-106.6, C.R.S., relating to surplus state property and any rules promulgated thereunder.

**Source: L. 2006:** Entire section added, p. 163, § 2, effective March 31.



## PART 3

## DIRECT GRANTS TO JUNIOR COLLEGE DISTRICTS

**23-71-301. Direct grants to junior college districts - occupational courses.**

(1) (a) Any junior college district operating or organized and operating as such during the entire school year in which a grant is made shall be entitled to a direct grant, from funds appropriated for this purpose, in an amount specified annually by the general assembly. Procedures for the certification by junior college districts to the state board for community colleges and occupational education, referred to in this part 3 as the "board", of the numbers of students and the quarter or semester hours for which students are registered shall be prescribed by regulation of the board. No moneys shall be distributed under this section for any students other than those enrolled in postsecondary courses for credit in degree and certificate programs.

(b) The board shall establish procedures for the distribution of direct grants that encourage each district college to maintain an appropriate balance of vocational enrollments within its service area.

(2) and (3) Repealed.

**Source:** **L. 75:** Entire article added, p. 762, § 1, effective July 1; entire section amended, p. 789, § 1, effective July 28. **L. 77:** (1) amended, p. 280, § 28, effective June 29. **L. 78:** (1) and (2) amended, p. 388, § 1, effective May 5. **L. 81:** (3) amended, p. 1124, § 1, effective May 18. **L. 87:** (1)(b) amended and (2) and (3) repealed, p. 840, §§ 2, 4, effective June 16. **L. 94:** (1) amended, p. 486, § 1, effective March 31.

**23-71-302. Distribution of grants - proration.** (1) The payment dates and allocation of grants paid on such dates shall be as determined by the board, with prior notice to the state treasurer. The board shall certify to the state treasurer the amounts to be paid to eligible junior college districts and area vocational schools as direct grants from sums appropriated by the general assembly for such purpose, and, upon such certification, the board shall make distribution of such amounts to the respective junior college districts or area vocational schools. Such amounts may be used for current operating costs of the junior college or area vocational school or for capital construction.

(2) Should the appropriations for implementation of this section and section 23-71-301 be less than the total amount required for distribution, the board shall prorate the amount to be paid to each district in the same proportion as the appropriation bears to the amount approved eligible for distribution. Should the appropriations for implementation of this section and section 23-71-301 exceed the amount required, any unexpended balances shall revert to the general fund.

**Source:** **L. 75:** Entire article added, p. 752, § 1, effective July 1. **L. 81:** (1) amended, p. 1125, § 1, effective July 1.

**23-71-303. Distributions to area vocational schools.** (1) Any area vocational school operating or organized and operating as such during the entire school year may be reimbursed by the state in an amount specified annually by the general assembly. In no instance shall such reimbursement exceed the total direct cost of the vocational program per FTE.

(2) Distributions made under this section shall be only for students with a declared objective in approved occupational courses and shall not include students enrolled with avocational objectives.

**Source:** **L. 75:** Entire article added, p. 763, § 1, effective July 1. **L. 77:** (1) amended, p. 1128, § 1, effective July 1. **L. 80:** (1) amended, p. 574, § 1, effective July 1. **L. 87:** (1) amended, p. 840, § 3, effective June 16. **L. 94:** (1) amended, p. 487, § 2, effective March 31.

## PART 4

## TAX LEVIES AND REVENUES

**23-71-401. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Board of trustees" means the junior college district board of trustees authorized by law to administer the affairs of any district.

(2) "District" means a junior college district organized and existing pursuant to law.

**Source: L. 75:** Entire article added, p. 764, § 1, effective July 1. **L. 86:** (1) amended, p. 857, § 34, effective July 1.

**23-71-402. Certification - tax revenues.** (1) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the district shall certify to the board of county commissioners of the county wherein said district is located the separate amounts necessary, in the judgment of the board of trustees, to be raised from levies against the valuation for assessment of all taxable property located within the boundaries of said district for its general, bond redemption, and capital reserve funds to defray its expenditures therefrom during its next ensuing fiscal year.

(2) If only a portion of a district is located within a county, the board of trustees of said district shall certify the separate amounts to the board of county commissioners of each county wherein a portion of said district is located. The board of county commissioners of each such county shall levy a tax upon the taxable property located within said portion of the district included in its county at a rate sufficient to produce a pro rata share of each separate amount certified, such pro rata share to be based on the ratio of the valuation for assessment of taxable property located within that portion of said school district located within said county to the total valuation for assessment of taxable property located in the entire district; except that the rate of tax levies for said district shall be the same throughout the territorial limits of said district except for a variation in the tax levy needed for the bond redemption fund of said district, which rate may vary because of changes in the boundaries of said district.

(3) The levy for the capital reserve fund shall not exceed four mills in any year.

(4) (a) Whenever, after a reorganization, any district has within its boundaries any new territory, the board of trustees of the district shall certify to the board of county commissioners the amount required during the next ensuing fiscal year to satisfy such territory's proportionate share of the obligations of the outstanding bonded indebtedness.

(b) If, after reorganization of the district, there is any territory liable for the payment of bonded indebtedness, different either in amounts, dates of creation, or dates of interest or principal maturities, then, in certifying to the boards of county commissioners the statement of the amount necessary to be raised from levies pursuant to subsection (1) of this section, it is the duty of the board of trustees of such district to also certify to the board of county commissioners the territory which has bonded indebtedness outstanding, the legal description of the territory liable for the payment of such bonded indebtedness, or portion thereof, and the amount required during the ensuing fiscal year to meet payments of interest and principal falling due therein. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy.

**Source: L. 75:** Entire article added, p. 764, § 1, effective July 1. **L. 86:** (1), (2), and (4) amended, p. 858, § 35, effective July 1. **L. 87:** (1) amended, p. 1406, § 2, effective April 22.

**23-71-403. Change in needed tax revenues - unlawful.** A board of trustees or a board of county commissioners shall not modify the amount certified pursuant to section 23-71-



402 as needed for any fiscal year, nor shall said board of county commissioners be charged with any discretion in determining or reviewing the amounts so certified other than to ascertain if said amounts are within the limitations as prescribed by law.

**Source:** **L. 75:** Entire article added, p. 765, § 1, effective July 1. **L. 86:** Entire section amended, p. 858, § 36, effective July 1.

**23-71-404. County treasurer - accounts - warrants.** (1) It is the duty of the county treasurer to keep separate accounts by funds and subsidiary accounts for the bond redemption fund of each district in his county, and said funds and accounts shall be subject to the warrants of said district. The tax revenues shall be credited to the proper fund and account, together with any penalty interest collected thereon.

(2) If only a portion of a district is situate within the territorial limits of said county and the headquarters of said district are not located therein, the county treasurer shall transfer, at the end of each month, all moneys which have accrued to the credit of said district to the county treasurer of the county wherein the headquarters of said district is located. No warrant shall be drawn by a district situate in more than one county against its moneys except against those moneys in the custody of the county treasurer of the county wherein the district headquarters is located.

(3) If a district warrant is presented to the county treasurer of a district situate in his county and there are no moneys or insufficient moneys to the credit of said district in the proper fund or account thereof to pay such warrant, it is the duty of said county treasurer to register such warrants in the order of presentment and endorse each such warrant "no funds". Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the manner as registered county warrants. The county treasurer shall keep a list of all warrants so registered and endorsed and furnish a copy of said list to the treasurer of said district. The county treasurer shall pay both the principal and interest of said warrants, in the order of registration, when there are sufficient moneys to the credit of the district fund or account upon which any such warrant was drawn. It is his duty to cause to be published in a newspaper with general distribution in said district for five days a notice that certain district warrants, describing said warrants by numbers and amounts, will be paid upon presentation at the expiration of said five-day notice, at which time said warrants shall cease to bear interest.

(4) It is unlawful for a district to issue warrants in excess of the amount budgeted or appropriated to or the anticipated revenues for any fund, whichever is less, for said district's fiscal year whether or not the board of trustees of said district has elected to withdraw its moneys from the custody of the county treasurer.

(5) It is the duty of the county treasurer to cancel all paid district warrants with a proper cancelling stamp and indicate the date of payment thereof.

**Source:** **L. 75:** Entire article added, p. 765, § 1, effective July 1. **L. 84:** (1) amended, p. 1002, § 2, effective March 16. **L. 86:** (4) amended, p. 859, § 37, effective July 1.

**23-71-405. Depositories.** (1) When the board of trustees of a district has elected to have all moneys belonging to the district paid over to the treasurer of said board, the treasurer shall deposit, or cause to be deposited, all such moneys in such depositories as shall be designated by such board.

(2) Each designated depository shall be required to give a surety bond in an amount equal to at least one hundred ten percent of the amount on deposit to the credit of the district at any time, with sureties approved by the board of trustees of the district and conditioned for the payment of all moneys on deposit to the credit of the district, upon demand of the treasurer thereof through presentation of checks, warrants, or orders. In lieu of such surety bond, the board of trustees may accept obligations of the United States or the state of Colorado or general obligation bonds of any district located within the state in an amount equal to said surety bond, and such securities shall be placed with and held in trust by some bank, other than the depository, within the state or with the Denver branch of the federal

reserve bank of Kansas City, Missouri, contingent upon the issuance of a joint custody receipt subject to the joint order of the depository and the treasurer of said board and conditioned to secure and guarantee payment of all moneys on deposit to the credit of said district, upon demand of the district through presentation of a warrant or order.

(3) Any moneys belonging to a district which are temporarily not needed in the conduct of its operations may be invested or deposited by the board of trustees of such district pursuant to the provisions of sections 24-75-601 to 24-75-603, C.R.S.

(4) Notwithstanding the provisions of this section, the board of trustees of any district may provide for the establishment, operation, and maintenance of refunding escrow agreements and accounts and may provide for payment of principal and interest on the outstanding bonds of such district by paying agents, pursuant to the provisions of parts 5 and 6 of this article.

**Source: L. 75:** Entire article added, p. 756, § 1, effective July 1. **L. 86:** Entire section amended, p. 859, § 38, effective July 1.

**23-71-406. Registered warrants by treasurer of the board of trustees.** If a board of trustees has elected to withdraw all district moneys from the temporary custody of the county treasurer and there are no moneys or insufficient moneys to the credit of the proper fund of said district on deposit with a depository to pay any warrant or order drawn against said fund, the treasurer of said board of trustees shall register said warrant in the same manner as otherwise prescribed for a county treasurer under the provisions of section 23-71-404. Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the same manner as warrants registered by the county treasurer. The treasurer of said board of trustees shall perform all duties required of the county treasurer under section 23-71-404 (3) in the registration and payment of district warrants registered by said treasurer of the board of trustees, including publication for notice of payment thereof.

**Source: L. 75:** Entire article added, p. 766, § 1, effective July 1. **L. 86:** Entire section amended, p. 859, § 39, effective July 1.

**23-71-407. Short-term loans.** The board of trustees of any district may negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the general fund and the amount credited to date to said general fund in order to eliminate the necessity of issuing registered warrants upon said general fund. Such loan shall be liquidated within six months thereafter from moneys subsequently credited to said general fund. The total rate of interest, including fees to be paid on such loan, shall not exceed seventy-five percent of the discount rate set by the federal reserve board for the tenth federal reserve district establishing the rate of interest which federal reserve banks shall charge member banks when such member banks borrow money from a federal reserve bank.

**Source: L. 75:** Entire article added, p. 766, § 1, effective July 1. **L. 80:** Entire section amended, p. 556, § 2, effective April 13. **L. 86:** Entire section amended, p. 860, § 40, effective July 1.

## PART 5

### BONDED INDEBTEDNESS

**23-71-501. Definitions.** As used in this part 5, unless the context otherwise requires:

- (1) "Board of trustees" means the governing body authorized by law to administer the affairs of any junior college district.
- (2) "District" means a junior college district organized and existing pursuant to law.



(2.5) "Eligible elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the junior college district calling the election.

(3) "Net effective interest rate" of a proposed issue of bonds means the net interest cost of the issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities. In all cases, the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "Net interest cost" of a proposed issue of bonds means the total amount of interest to accrue on said bonds from their date to their respective maturities, plus the amount of any discount below par or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(5) and (6) (Deleted by amendment, L. 92, p. 860, § 72, effective January 1, 1993.)

**Source:** L. 75: Entire article added, p. 767, § 1, effective July 1. L. 86: (1) amended, p. 860, § 41, effective July 1. L. 92: (2.5) added and (5) and (6) amended, p. 860, § 72, effective January 1, 1993.

**23-71-502. Bonded indebtedness - elections.** (1) No general obligation bonded indebtedness shall be contracted by any district for the purpose of purchasing, erecting, improving, remodeling, and furnishing junior college buildings, sites, facilities, and equipment unless the proposition to create such debt has first been submitted to and approved by the eligible electors of the district.

(2) The board of trustees of any district, at any regular biennial school election or at a special election called for the purpose, shall submit to the eligible electors of the district the question of contracting a bonded indebtedness for the purpose of purchasing, erecting, improving, remodeling, and furnishing junior college buildings, sites, facilities, and equipment, which purposes shall be broadly construed, subject to the limitations provided in section 23-71-503.

(3) All elections authorized under this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The secretary of the board of trustees shall be the designated election official for all elections unless otherwise provided by the board of trustees. Any notice given shall contain a statement of the amount of the bonded indebtedness proposed to be contracted, the maximum net effective interest rate at which the indebtedness shall be incurred, and the maximum period of time within which the amount shall be payable, and the day and the place of the election.

(4) and (5) (Deleted by amendment, L. 92, p. 861, § 73, effective January 1, 1993.)

(6) (a) The board of trustees of any district, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may submit at another regular or special election:

(I) The question of issuing the bonds, or any portion thereof, at a higher maximum net effective interest rate than the maximum interest rate or maximum net effective interest rate approved at the original election; or

(II) The question of issuing the bonds, or any portion thereof, to mature over a longer period of time than the maximum period of maturity approved at the original election.

(b) An election held pursuant to this subsection (6) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question permitted under this subsection (6).

(c) If a majority of those voting at an election held pursuant to this subsection (6) fail to approve the changes submitted, such result shall not impair the authority of the board of trustees at a later time to issue the bonds originally approved within the limitations established at the first election.

**Source:** **L. 75:** Entire article added, p. 767, § 1, effective July 1. **L. 86:** (2) to (5), IP(6)(a), and (6)(c) amended, p. 860, § 42, effective July 1. **L. 92:** (1) to (5) amended, p. 861, § 73, effective January 1, 1993.

**23-71-503. Limitations on elections.** The question of contracting bonded indebtedness may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this part 5; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of trustees of a district shall not submit any question of contracting bonded indebtedness at more than two elections within any twelve-month period. The provisions of this section shall not apply to elections on assumption of existing bonded indebtedness held pursuant to law.

**Source:** **L. 75:** Entire article added, p. 768, § 1, effective July 1. **L. 86:** Entire section amended, p. 861, § 43, effective July 1.

**23-71-504. Limit of bonded indebtedness.** (1) Each district shall have a limit of bonded indebtedness of twenty percent of the latest valuation for assessment of the taxable property in such district as certified by the assessor to the board of county commissioners. The indebtedness of the former districts or parts of districts, constituting any new district, shall not be considered in fixing the limit of such twenty percent; but, if any district assumes the bonded indebtedness of any other district, or a proportionate share thereof, existing at the time of inclusion in the assuming district, pursuant to law, such bonded indebtedness shall be included in the twenty percent limitation.

(2) The permission to incur additional bonded indebtedness, granted by the property tax administrator in the department of local affairs, and any district bonds issued pursuant thereto on or after May 10, 1972, are hereby validated. This subsection (2) shall not be construed to grant authority to incur bonded indebtedness in excess of said twenty percent limitation.

**Source:** **L. 75:** Entire article added, p. 769, § 1, effective July 1.

**23-71-505. Voting precincts. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 861, § 44, effective July 1. **L. 92:** Entire section repealed, p. 862, § 74, effective January 1, 1993.

**23-71-506. Ballots. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 862, § 45, effective July 1. **L. 92:** Entire section repealed, p. 862, § 75, effective January 1, 1993.

**23-71-507. Joint election for directors and bonds. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 769, § 1, effective July 1. **L. 92:** Entire section amended, p. 862, § 76, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1438, § 131, effective July 1.

**23-71-508. Pollbooks - certificate of return. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 769, § 1, effective July 1. **L. 86:** Entire section amended, p. 862, § 46, effective July 1. **L. 92:** Entire section repealed, p. 862, § 77, effective January 1, 1993.



**23-71-509. Registration. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 770, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 47, effective July 1. **L. 92:** Entire section repealed, p. 863, § 78, effective January 1, 1993.

**23-71-510. Registration list omissions - challenges - oath - rejection of vote. (Repealed)**

**Source:** **L. 75:** Entire article added p. 770, § 1, effective July 1. **L. 80:** (4) amended, p. 410, § 12, effective January 1, 1981. **L. 86:** (1) and (3) amended, p. 863, § 48, effective July 1. **L. 92:** Entire section repealed, p. 863, § 79, effective January 1, 1993.

**23-71-511. Count and canvass. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 771, § 1, effective July 1. **L. 86:** (1) amended, p. 863, § 49, effective July 1. **L. 92:** Entire section repealed, p. 864, § 80, effective January 1, 1993.

**23-71-512. Absentee voting. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 771, § 1, effective July 1. **L. 80:** Entire section amended, p. 410, § 13, effective January 1, 1981. **L. 92:** Entire section repealed, p. 864, § 81, effective January 1, 1993.

**23-71-513. Use of voting machines. (Repealed)**

**Source:** **L. 75:** Entire article added, p. 771, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 50, effective July 1. **L. 92:** Entire section repealed, p. 865, § 82, effective January 1, 1993.

**23-71-514. Board of trustees may issue bonds - exemption from Colorado income tax.** When approved at an election held pursuant to section 23-71-502, the board of trustees, from time to time, as the proceeds thereof are needed for the purposes specified in the notice of said bond election, shall issue bonds of the district in denominations of one thousand dollars or any multiple of one thousand dollars, in its discretion, bearing interest at a rate such that the net effective interest rate of the bond issue does not exceed the maximum net effective interest rate specified in the notice of said bond election, payable at such time, determined in the discretion of the board of trustees, which bonds shall mature serially, commencing not later than five years and extending not more than twenty-five years from the date thereof. Principal and interest thereon shall be payable at such place as shall be determined by said board of trustees and designated in said bonds. Said bonds shall be made callable for redemption commencing no later than eleven years from their date in such manner, with or without premium, as may be determined by the board of trustees. Interest on junior college district bonds issued on or after July 1, 1973, shall be exempt from Colorado income tax.

**Source:** **L. 75:** Entire article added, p. 772, § 1, effective July 1. **L. 86:** Entire section amended, p. 863, § 51, effective July 1.

**23-71-515. Form of bonds.** The bonds issued under the provisions of this part 5 shall be numbered consecutively, beginning with number one. The board of trustees of the district is authorized to prescribe the form of such bonds. Said bonds shall recite that they are issued pursuant to this part 5, and said bonds shall be signed by the president of the board of trustees, bear an impression of the seal of the district, and be attested by signature of the

secretary. Coupons, if any, evidencing the interest thereon shall bear the signature of the president of the board of trustees, which may be affixed by him in person, or it may be an engraved or lithographed facsimile thereof. At the discretion of the board of trustees, any bonds may be issued with privileges for registration of such bonds for payment as to principal, interest, or both. In the execution of bonds authorized pursuant to this part 5, the board of trustees may provide for the use of facsimile signatures and facsimile seals in the manner set forth in article 55 of title 11, C.R.S.

**Source:** L. 75: Entire article added, p. 772, § 1, effective July 1. L. 86: Entire section amended, p. 864, § 52, effective July 1.

**23-71-516. Sale at less than par - discount.** If it is found to be in the best interest of the district, the board of trustees may issue such bonds and accept therefor less than their face value; but such bonds shall be sold at a price such that the net effective interest rate for the issue of bonds does not exceed the maximum net effective interest rate approved by the voters in the election authorizing such bonds.

**Source:** L. 75: Entire article added, p. 772, § 1, effective July 1. L. 86: Entire section amended, p. 864, § 53, effective July 1.

**23-71-517. Board of trustees to certify needed revenues.** (1) If the board of trustees has issued any of said bonds at the time of certifying to the board of county commissioners a statement showing the amount necessary to raise from the taxable property of said district for the general fund as required by law, it shall also certify to said board of county commissioners the amount needed for its bond redemption fund to pay all installments of principal and interest of said bonds, which, according to their terms, have already become due and payable or shall become due and payable during the next ensuing fiscal year, or both, together with such additional amount, if any, as, in the judgment of the board of trustees, is desirable to raise from the taxable property of said district for the purpose of redeeming, during the said ensuing fiscal year, any of said bonds which are redeemable but not due.

(2) The board of trustees has the authority to include in each amount certified for said bond redemption fund an amount to create a reserve for the redemption of bonds in future years prior to their maturities or for purchasing at a discount and cancellation any bond on which the interest is being paid from the current district debt service mill levy; but said reserve shall be restricted to the subsidiary account in the bond redemption fund for which said tax levy was made. A total of not more than one mill on the then current valuation for assessment may be carried in the reserve at any one time to be available for prior redemption purposes.

**Source:** L. 75: Entire article added, p. 772, § 1, effective July 1. L. 86: Entire section amended, p. 864, § 54, effective July 1.

**23-71-518. Tax levy to pay principal and interest.** (1) If any district has issued bonds under the provisions of this part 5, it is the duty of the board of county commissioners of the county in which said district is situated, at the time of levying other district taxes, to levy a tax on all the taxable property of said district at a rate sufficient to produce such amount as has been certified by the board of trustees of said district for the purpose of paying bonds not yet due, as provided in section 23-71-517.

(2) Except when said district has sufficient moneys or securities in a refunding escrow account to satisfy the bonded indebtedness obligations which will be due and payable during said district's next ensuing fiscal year, if the board of trustees fails to certify such an amount to the board of county commissioners as required by section 23-71-517, the board of county commissioners, nevertheless, shall levy upon the appropriate taxable property of said district a tax in addition to the taxes levied for other purposes in an amount sufficient to pay all installments of principal and interest of said bonds that shall become due during



the next ensuing fiscal year or, if said bonds do not become due and payable in series at different times, in an amount sufficient to pay all installments of interest then to become due and the aforesaid portion of principal.

(3) The amount certified pursuant to section 23-71-517 and the rate of the tax levy required by this section shall be sufficient to cover any deficiency which may occur by reason of delinquent payment of taxes.

(4) The county treasurer shall not collect any fee on the moneys received by virtue of a tax levied pursuant to this section or by virtue of his office having been designated as the place of payment or optional place of payment for bonds issued under this part 5 or under part 6 of this article, nor shall he collect any fee on any moneys received from any other source to pay bonds or interest thereon.

**Source: L. 75:** Entire article added, p. 773, § 1, effective July 1. **L. 86:** (1) and (2) amended, p. 865, § 55, effective July 1.

**23-71-519. Bond fund - payment and redemption.** (1) Such taxes shall be collected in the same manner as district taxes and when collected shall be placed by the county treasurer in the bond redemption fund of said district. The moneys in said fund shall be used only for payment of interest upon and for the redemption of such bonds, upon orders signed and countersigned in the manner provided by law for the execution of other district orders; but the board of trustees of said district may withdraw any or all of such moneys credited to said fund which are temporarily not needed to satisfy the obligations of bonded indebtedness, for the purpose of depositing or investing such moneys in the manner prescribed by law.

(2) Redemption of said bonds prior to the respective maturities thereof may be made in either direct or inverse numerical order as determined by the board of trustees in the resolution authorizing the issuance of said bonds and set forth on the face of said bonds. Notice of the redemption of said bonds, prior to maturity, shall be made in the manner prescribed in said bond resolution. In the absence of such prescribed manner in the bond resolution, a redemption prior to maturity shall be made in the following manner: When authorized by the board of trustees, the treasurer of said board shall advertise in some newspaper published in the district once a week for two consecutive weeks that on a certain day, named in said advertisement, not less than four weeks after the time of the first publication thereof, he will redeem certain of said bonds therein described by number, amount, and date of issue thereof and that the principal, interest to redemption date, and redemption premium, if any, of said bonds will be paid in accordance with the bond resolution authorizing such bonds. The notice shall indicate also that, after the day so fixed for redemption, the interest on the bonds shall cease. After the day of redemption so fixed in said notice the bonds so advertised and called to be redeemed shall cease to draw interest.

(3) If the bonds are made payable at the office of the county treasurer, any redemption of such bonds shall also be made at the office of the county treasurer of the county, who shall make a notation of such payment or redemption upon his books.

(4) If the bonds are made payable at some place other than the office of the county treasurer, such bonds shall be redeemable at the place where payable, and the treasurer of the board of trustees shall, immediately after the payment or redemption, inform the county treasurer that certain bonds, describing them by number, amount, and date of issue, have been paid or redeemed and cancelled, and said county treasurer shall make a record of such payment or redemption upon his books.

(5) In all cases bonds when paid or redeemed shall be cancelled by the treasurer of the board of trustees and preserved by him and his successors for a period of one year after the date of their payment or redemption.

**Source: L. 75:** Entire article added, p. 773, § 1, effective July 1. **L. 86:** (1), (2), (4), and (5) amended, p. 865, § 56, effective July 1.

**23-71-520. Place of payment.** (1) The board of trustees is authorized to designate the office of the county treasurer of the county in which the headquarters of such district is

situated as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such district or to designate any commercial bank or trust company as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such district, and the commercial bank or trust company so designated may be located either within or without this state.

(2) It is the duty of the board of trustees to cause sufficient moneys from said tax levy or refunding escrow account to be placed from time to time at the place of payment, or optional place of payment, designated on said bonds in an amount to satisfy the principal and interest obligations of said bonds as the same may become due and payable from time to time. It is the duty of the treasurer of said board to pay or cause to be paid the obligations of said bonds as the same may become due and payable, upon presentation of the bonds and coupons respectively evidencing such obligations, from any moneys to the credit of the appropriate account available for that purpose.

**Source:** L. 75: Entire article added, p. 774, § 1, effective July 1. L. 86: Entire section amended, p. 866, § 57, effective July 1.

**23-71-521. Registration of bonds.** When any district issues bonds under the provisions of this part 5, the board of trustees may make and enter in its record a request that the county clerk and recorder of the county wherein the headquarters of such district is situated register the bonds in a book to be kept by him for that purpose. When so registered, the legality thereof shall not be open to contest by such district, or any person whomsoever, for any reason whatever. A certified copy of the order of the board of trustees, so made and entered of record, shall be furnished to the said county clerk and recorder by the said board, and, thereupon, it shall be his duty to register said bonds, noting the name of the district and the amount, the date of issuance and maturity, and the rate of interest of said bonds. He shall receive a fee of twenty-five dollars for registering each such issue.

**Source:** L. 75: Entire article added, p. 774, § 1, effective July 1. L. 86: Entire section amended, p. 867, § 58, effective July 1.

**23-71-522. Changes in boundaries - liability.** (1) Nothing in this part 5 or in any other provision of law shall release the taxable property within a district which incurred bonded indebtedness from liability for its proportionate share of the outstanding obligations thereof.

(2) The taxable property located within the territory of a district which is dissolved shall be liable for its proportionate share of the bonded indebtedness incurred by the district.

(3) The taxable property of a district which is detached and annexed shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing district.

**Source:** L. 75: Entire article added, p. 775, § 1, effective July 1.

**23-71-523. Validation.** All outstanding bonds and all acts and proceedings had or taken, or purportedly had or taken, prior to July 1, 1964, by or on behalf of any district under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment of all such bonds are validated, ratified, approved, and confirmed, notwithstanding any lack of power or authority or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings and in such authorization, execution, sale, issuance, and payment, including, without limiting the generality of the foregoing, such acts and proceedings appertaining to bonds, all or any part of which have not been issued nor purportedly issued.

**Source:** L. 75: Entire article added, p. 775, § 1, effective July 1.



**23-71-524. Prior obligations not impaired.** Nothing in this part 5 shall impair the obligations of any bonds, or the refunding thereof, issued by a school district prior to July 1, 1964, or otherwise invalidate any such bond or the obligations or refunding thereof.

**Source: L. 75:** Entire article added, p. 775, § 1, effective July 1.

**23-71-525. Public disclosure of terms of sale.** (1) When bonds are sold, the board of trustees of the district selling the same shall cause to be prepared and filed with the state board for community colleges and occupational education, within ten days after said sale, a report setting forth a description of the bond issue, the applicable interest rate, including the net effective interest rate, any other terms of the sale, and any applicable statistical, comparative bond market data, ratings, and indices relative to prevailing market conditions prior to and at the time of said sale and explaining the reasons why it was necessary, if it was, that the bonds be sold at a negotiated sale instead of by public competitive bidding. The state board for community colleges and occupational education may request additional information from the district or from the purchaser of the bonds regarding terms of the sale.

(2) One or more copies of said report shall be retained on file at the administrative headquarters of the district.

**Source: L. 75:** Entire article added, p. 775, § 1, effective July 1. **L. 86:** (1) amended, p. 867, § 59, effective July 1.

**23-71-526. Validation.** All elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any district, under law or under color of law, preliminary to and in the holding and canvass of all elections are validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

**Source: L. 75:** Entire article added, p. 775, § 1, effective July 1.

**23-71-527. Validation - effect - limitations.** (1) All bonds issued and other contracts, leases, or agreements executed by districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 23-71-504 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply such legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

**Source: L. 75:** Entire article added, p. 776, § 1, effective July 1.

## PART 6

## REFUNDING BONDS

**23-71-601. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "Board of trustees" means the governing body authorized by law to administer the affairs of any junior college district.

(2) "District" means a junior college district organized and existing pursuant to law.

(3) "Federal securities" means the bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States.

(4) "Net effective interest rate" of a proposed issue of refunding bonds means the net interest cost of said refunding issue divided by the sum of the products derived by multiplying the principal amounts of such refunding issue maturing on each maturity date by the number of years from the date of said proposed refunding bonds to their respective maturities. "Net effective interest rate" of an outstanding issue of bonds to be refunded means the net interest cost of said issue to be refunded divided by the sum of the products derived by multiplying the principal amounts of such issue to be refunded maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(5) "Net interest cost" of a proposed issue of refunding bonds means the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, less the amount of any premium above par at which said refunding bonds are being or have been sold. "Net interest cost" of an outstanding issue of bonds to be refunded means the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

**Source:** L. 75: Entire article added, p. 776, § 1, effective July 1. L. 86: (1) amended, p. 867, § 60, effective July 1.

**23-71-602. Refunding bonds may be issued.** (1) Any district in this state may issue negotiable coupon bonds to be denominated refunding bonds for the purpose of refunding any of the bonded indebtedness of such district, whether said indebtedness is due or not due or has or may hereafter become payable or redeemable at the option of such district, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness be now existing or may hereafter be created.

(2) The bonded indebtedness of any district outstanding at the time of the inclusion of all such district's territory in another district, by reorganization, consolidation, dissolution, or any other lawful means, may be refunded by action of the board of trustees of the district, including such territory at the time of such refunding, whether or not such indebtedness has been assumed by the district including such territory.

(3) When an entire district having outstanding bonded indebtedness has been divided and parts thereof included within two or more other districts by any lawful means, the refunding of such indebtedness shall require affirmative action by a majority of the members of the boards of trustees of each of the districts within which any part of the territory of such district owing said indebtedness is then included, except as is provided in this part 6 to the contrary.

(4) The bonded indebtedness of any district outstanding at the time any territory of said district is detached therefrom by any lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such territory from said district, may be refunded by action of the board of trustees of such district from which territory has been detached with or without concurrence or action by the board of trustees of the district within which said detached territory is included. Such districts from which territory has been



detached and which retain their corporate existence subsequent to detachment are specifically exempted from the requirements and provisions of subsection (3) of this section.

(5) Any such refunding bonds may be issued to refund any issues of outstanding bonds; but no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property upon which tax levies are being made for payment of each such outstanding issue of bonds is identical to the taxable property on which such levies are being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds.

**Source: L. 75:** Entire article added, p. 777, § 1, effective July 1. **L. 86:** (2) to (4) amended, p. 867, § 61, effective July 1.

**23-71-603. Question of issuing refunding bonds.** (1) When the board of trustees of any district deems it expedient to issue refunding bonds under the provisions of this part 6 and the net effective interest rate and the net interest cost of said issue of refunding bonds do not exceed the net effective interest rate and the net interest cost of the outstanding bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing the same at an election held in accordance with part 5 of this article. If two or more issues of outstanding bonds of a district are to be refunded by the issuance of a single issue of refunding bonds, as provided in section 23-71-602 (5), the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds at an election held in accordance with part 5 of this article.

(2) If any district proposes to issue refunding bonds, on which issue the net interest cost or net effective interest rate exceeds the net interest cost or net effective interest rate of the outstanding bonds to be refunded, the board of trustees shall submit the question of issuing such refunding bonds and the maximum net interest cost and maximum net effective interest rate at which such refunding bonds may be issued at the regular biennial election or at a special election called for that purpose. Any such election shall be called and held as nearly as may be in accordance with part 5 of this article for elections on the question of the issuance of other bonds of the issuing district.

**Source: L. 75:** Entire article added, p. 778, § 1, effective July 1. **L. 86:** Entire section amended, p. 868, § 62, effective July 1.

**23-71-604. Authorization - form - interest.** (1) Such refunding bonds shall be authorized by a resolution fixing the date, the denominations, the rate of interest on individual bonds, the maturity dates which shall not be more than twenty-five years after the date of such refunding bonds, and the place of payment, within or without the state of Colorado, of both principal and interest and prescribing the form of such refunding bonds. Such bonds shall be negotiable in form and executed in the same manner as prescribed for other school district bonds. At the discretion of the board of trustees, any such bonds may be issued with privileges for registration for payment as to principal or interest, or both.

(2) The interest accruing on such refunding bonds may be evidenced by interest coupons thereto attached in substantially the same form as prescribed for other school district bonds, and, when so executed, such coupons shall be the binding obligations of the district according to their import. Such refunding bonds shall mature serially, commencing not later than five years after the date of such bonds and maturing during a period not exceeding twenty-five years after the date thereof. The amount of such maturities shall be fixed by the board of trustees and specified in the resolution authorizing the issuance of the refunding bonds. The right to redeem all or part of said bonds prior to their maturity, and the order of any such redemption, may be reserved in the resolution authorizing the issuance

of bonds and shall be set forth on the face of said bonds. Interest on junior college district refunding bonds issued on or after July 1, 1973, shall be exempt from Colorado income tax.

**Source:** **L. 75:** Entire article added, p. 778, § 1, effective July 1. **L. 86:** Entire section amended, p. 869, § 63, effective July 1.

**23-71-605. Sale - proceeds - amounts.** Such refunding bonds may be exchanged for the bonds to be refunded, or they may be sold at, above, or below their par value; but such refunding bonds shall be exchanged or sold at a price such that the net interest cost and the net effective interest rate for the issue of refunding bonds does not exceed the net interest cost and the net effective interest rate of the outstanding bonds to be refunded or the maximum net effective interest rate and net interest cost approved by the voters, as the case may be. Such refunding bonds shall be in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the board of trustees, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same as or less than the principal amount of the bonds to be refunded, if due, adequate, and sufficient provision has been made for the payment or redemption and retirement of said bonds to be refunded and the payment of the interest accruing thereon in accordance with this part 6.

**Source:** **L. 75:** Entire article added, p. 779, § 1, effective July 1. **L. 86:** Entire section amended, p. 869, § 64, effective July 1.

**23-71-606. Needed revenues - tax levy - miscellaneous.** (1) Whenever a board of trustees issues refunding bonds under the provisions of this part 6, sections 23-71-517 to 23-71-521 shall be applicable to said refunding bonds and the procedures therefor, in the same manner as prescribed for other district bonds; except that any such refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds if no refunding thereof had occurred.

(2) After refunding bonds are issued pursuant to this part 6, the resolution authorizing the same and providing for the levy of taxes for the payment of interest upon and the principal of such refunding bonds shall not be altered or repealed until the refunding bonds so authorized have been fully paid.

**Source:** **L. 75:** Entire article added, p. 779, § 1, effective July 1. **L. 86:** (1) amended, p. 869, § 65, effective July 1.

**23-71-607. Application of bond proceeds - procedures - limitations.** (1) The proceeds derived from the issuance of any refunding bonds under the provisions of this part 6 shall either be immediately applied to the payment or redemption and retirement of the bonds to be refunded and the cost and expense incident to such procedures or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the costs and expenses incident to such proceedings and for no other purpose whatsoever until the bonds being refunded have been paid in full and discharged and all accrued interest thereon has also been paid in full, upon which occurrences the escrow shall terminate, and any moneys remaining therein shall be returned to the district's bond redemption fund.

(2) Any such escrowed proceeds, pending such use, may be invested or, if necessary, reinvested only in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such times as to insure the prompt payment of the bonds refunded under the provisions of this part 6 and the interest accruing thereon.

(3) Such escrowed proceeds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times is sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom. The



computations made in determining such sufficiency shall be verified by a certified public accountant.

(4) For the purpose of implementing the provisions of this part 6, the committee of any district has the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within the state of Colorado and a member of the federal deposit insurance corporation under protective covenants and agreements whereby such accounts shall be fully secured by securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., or shall be invested in such securities only, in such amounts as will be sufficient and maturing at such times so as to insure the prompt payment of the bonds refunded and the interest accruing thereon, under the provisions of this part 6.

(5) In no event shall the aggregate amount of bonded indebtedness of any district exceed the maximum allowable amount as determined pursuant to section 23-71-504; except that in determining and computing such aggregate amount of bonded indebtedness of any district, bonds which have been refunded, as provided in this part 6, either by immediate payment or redemption and retirement or by the placement of the proceeds of refunding bonds in escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying or redeeming and retiring such bonds or from and after the date on which the proceeds of said refunding bonds are placed in escrow.

(6) The issuance of refunding bonds by any district for the purposes of and in the manner authorized by this part 6, or by the provisions of any other law, shall never be interpreted or taken to be the creation of an indebtedness such that the same would require the approval at an election held in accordance with part 5 of this article, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by the law under which said refunding bonds are sought to be issued or have been issued.

(7) No bonds may be refunded under the provisions of this part 6 unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years after the date of issuance of the refunding bonds, and provisions shall be made for paying or redeeming and discharging all of the bonds refunded within said period of time.

(8) No bonds shall be refunded under the provisions of this part 6 within a period of one year following the actual issuance and delivery thereof to their initial purchasers unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the bonds being refunded.

(9) No bonds shall be issued under the provisions of this part 6 for the purpose of refunding any refunding bonds unless the original bonds refunded by said refunding bonds have previously been paid or redeemed and retired.

**Source: L. 75:** Entire article added, p. 779, § 1, effective July 1. **L. 89:** (2) and (4) amended, p. 1111, § 16, effective July 1.

**23-71-608. Reports.** Each district which issues refunding bonds under the provisions of this part 6 shall file a report within sixty days after the issuance of said bonds with the state board for community colleges and occupational education. The report shall indicate the principal amount of bonds refunded, the net effective interest rate of both the bonds refunded and the refunding bonds, the net interest cost of both the bonds refunded and the refunding bonds, all district costs incident to the issuance of refunding bonds, including those of the escrow agent, and such other items as may be determined by the state board for community colleges and occupational education.

**Source: L. 75:** Entire article added, p. 780, § 1, effective July 1.

**23-71-609. Validation.** All outstanding bonds and all acts and proceedings had or taken, or purportedly had or taken, prior to July 1, 1964, by or on behalf of any district

under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment of such bonds are validated, ratified, approved, and confirmed, notwithstanding any lack of power or authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings and in such authorization, execution, sale, issuance, and payment, including, without limiting the generality of the foregoing, such acts and proceedings appertaining to bonds, all or any part of which have not been issued nor purportedly issued.

**Source: L. 75:** Entire article added, p. 781, § 1, effective July 1.

**23-71-610. Prior obligations not impaired.** Nothing in this part 6 shall impair the obligations of any bonds, or the refunding thereof, issued by a district prior to July 1, 1964, or otherwise invalidate any such bond or the obligations or refunding thereof.

**Source: L. 75:** Entire article added, p. 781, § 1, effective July 1.

## PART 7

### JUNIOR COLLEGES - REVENUE SECURITIES LAW

**Editor's note:** This part 7 is similar to article 71 of title 22 as said article existed prior to 1975.

**23-71-701. Short title.** This part 7 shall be known and may be cited as the "Junior College Revenue Securities Law".

**Source: L. 75:** Entire article added, p. 781, § 1, effective July 1.

**23-71-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Committee" means the governing body of a district or any successor governing body of the district.

(2) "District" means any junior college district operating pursuant to the laws of this state.

(3) "Facilities" means buildings, structures, or other income-producing facilities from the operation of which or in connection with which pledged revenues for the payment of any securities issued under this part 7 are derived, including without limitation any facilities to be acquired with the proceeds of the securities issued under this part 7.

(4) "Net revenues" or "net pledged revenues" means all pledged revenues after the deduction of operation and maintenance expenses.

(5) (a) "Operation and maintenance expenses" means such reasonable and necessary current expenses of the district, paid or accrued, of operating, maintaining, and repairing the facilities pertaining to the pledged revenues for the payment of the securities issued under this part 7, as may be determined by a committee, and the term may include, at a committee's option, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(I) Legal and overhead expenses of the various district departments directly related and reasonably allocable to the administration of the facilities;

(II) Fidelity bond and insurance premiums appertaining to the facilities or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the facilities;

(III) The reasonable charges of any paying agent or depository bank appertaining to any securities issued by a district or appertaining to any facilities;

(IV) Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to facilities;

(V) The costs incurred by a district in the collection of all or any part of the pledged revenues, including without limitation revenues appertaining to any facilities;

(VI) Any costs of utility services furnished to the facilities by the district or otherwise.

(b) "Operation and maintenance expenses" does not include:



- (I) Any allowance for depreciation;
- (II) Any costs of reconstruction, improvements, extensions, or betterments;
- (III) Any accumulation of reserves for capital replacements;
- (IV) Any reserves for operation, maintenance, or repair of any facilities;
- (V) Any allowance for the redemption of any bond securities evidencing a loan or other obligations, or the payment of any interest thereon;
- (VI) Any liabilities incurred in the acquisition or improvement of any properties comprising any project or any existing facilities, or any combination thereof;
- (VII) Any other ground of legal liability not based on contract.

(6) (a) "Pledged revenues" means the moneys pledged wholly or in part for the payment of securities issued under this article and, subject to any existing pledges or other contractual limitations, may include, at a committee's discretion, any grants, appropriations, or other donations from the United States or its agencies or from any other donor, except the state or its agencies or political subdivisions, and income or moneys derived from one, all, or any combination of the following revenue sources, including without limitation student fees and other fees, rates, and charges appertaining thereto and for the development thereof:

- (I) Dormitories, apartments, and other housing facilities;
- (II) Cafeterias, dining halls, and other food service facilities;
- (III) Student union and other student activities facilities;
- (IV) Store or other facilities for the sale or lease of books, stationery, student supplies, faculty supplies, office supplies, and like material;
- (V) Theater, gymnasium, fieldhouse, stadium, arena, and other recreation or athletic facilities for use in part by spectators or otherwise;
- (VI) Land and any structures, other facilities, or improvements thereon used or available for use for the parking of vehicles used for the transportation by land or air of persons to or from such land and any improvements thereon;
- (VII) Properties providing heat or any other utility furnished by a district to any facilities on campus;
- (VIII) Services, contracts, investments, and other miscellaneous unrestricted sources of income not designated in this part 7, whether presently realized or to be realized, and accounted for in a miscellaneous sales and services fund or account.

(b) "Pledged revenues" does not include income or moneys derived in connection with any of the following:

- (I) Any tuition charges and registration fees;
- (II) The levy of any general (ad valorem) property taxes;
- (III) Any grants, appropriations, or other donations from the state, its agencies, or its political subdivisions.

(7) "Registration fees" means any charges paid by any student for the privilege of registering for attendance at a junior college in a district, except for any charges appertaining to those revenue sources set forth in subsection (6) (a) of this section.

(8) "Securities" means bonds and interim securities authorized to be issued under this part 7 in the name of and on the behalf of a district.

(9) "Tuition charges" means the price of or payment for general and special instruction of students as defined and determined from time to time by the committee.

**Source: L. 75:** Entire article added, p. 781, § 1, effective July 1.

**23-71-703. Power to issue securities.** (1) The committee of any district, pursuant to authorizing resolution and subject to the provisions and contractual limitations in resolutions authorizing outstanding revenue bonds and other securities of the district, may issue, without an election, securities to defray, in whole or in part, the cost of a project in the manner provided in and subject to the limitations imposed by this part 7.

(2) The project may be the acquisition, by purchase, construction, or otherwise, the improvement, or the equipment, or any combination thereof, of any dormitory, faculty or student housing unit, dining hall, recreational center, student center, laboratory, classroom, classroom building, administrative office, administrative building, swimming pool, gym-

nasium, athletic field, stadium, and any other building, structure, or land necessary or desirable for use in connection with a junior college of a district.

(3) The cost of the project may include, in the committee's discretion, all incidental costs pertaining to the project and the financing thereof, including, without limitation, contingencies and the capitalization with proceeds of securities of operation and maintenance expenses appertaining to facilities to be acquired and interest on the securities for any period not exceeding the period estimated by the committee to effect the project plus one year, of any discount on the securities and of any reserves for payment of principal of and interest on the securities.

**Source: L. 75:** Entire article added, p. 783, § 1, effective July 1.

**23-71-704. Interim securities.** The committee may issue interim securities, which may be designated "bonds", "notes", or "warrants", evidencing any emergency loans, construction loans, and other temporary loans of not exceeding three years, in supplementation of long-term financing, such interim securities to be funded with the proceeds of long-term securities, net pledged revenues, or further interim securities, or any combination thereof, as the committee may determine.

**Source: L. 75:** Entire article added, p. 783, § 1, effective July 1.

**23-71-705. Terms of securities.** (1) Except to the extent inconsistent with this part 7, any securities issued under this part 7 for any project shall be issued in the form and manner and with the effect provided in sections 11-54-111 and 11-54-112, C.R.S., for public securities issued under the "Refunding Revenue Securities Law".

(2) The authorizing resolution, trust indenture, or other instrument appertaining thereto may contain any of the covenants, and the committee may do such acts and things as are permitted in section 11-54-113, C.R.S., of the "Refunding Revenue Securities Law".

(3) Revenue obligations issued to refund revenue bonds of a district and to refund securities issued under this part 7 may be issued under the "Refunding Revenue Securities Law".

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**Cross references:** For the "Refunding Revenue Securities Law", see article 54 of title 11.

**23-71-706. Payable from special fund.** The securities shall be payable and collectible, as to principal, interest, and any prior redemption premium, solely out of net pledged revenues; the holder thereof may not look to any general or other fund for such payment of such securities, except the net revenues pledged therefor; the securities shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation, if any such provision or limitation appertains thereto; the securities shall not be considered or held to be general obligations of the district but shall constitute its special obligations; and the full faith and credit of the district shall not be pledged for their payment. Such payment shall not be secured by an encumbrance, mortgage, or other pledge of property of the district, except for its pledged revenues. No property of the district, subject to said exception, shall be liable to be forfeited or taken in payment of securities.

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-707. Recital of regularity.** A resolution providing for the issuance of bonds or other securities under this part 7 or an indenture or other proceedings appertaining thereto may provide that the securities contain a recital that they are issued pursuant to this part 7, which recital shall be conclusive evidence of their validity and the regularity of their issuance.



**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-708. Committee determination conclusive.** The determination of the committee that the limitations imposed under this part 7 upon the issuance of securities under this part 7 have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by section 23-71-707.

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-709. No impairment of contract.** Nothing in this part 7 or in any other law shall impair the existing obligations of contract embodied in outstanding revenue bonds validly issued under the statutes in force at the times of their issue prior to July 1, 1967.

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-710. Tax exemption.** Bonds and other securities issued under the provisions of this part 7, their transfer, and the income therefrom are exempt from taxation by this state or any subdivision thereof.

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-711. Construction.** (1) This part 7, without reference to other statutes of this state, except as otherwise expressly provided in this part 7, constitutes full authority for the exercise of the incidental powers granted in this part 7 concerning the borrowing of money to defray wholly or in part the cost of any project and the issuance of securities to evidence such loans.

(2) No other act or law with regard to the authorization or issuance of securities or the exercise of any other power granted in this part 7 that requires an approval or in any way impedes or restricts the carrying out of the acts authorized to be done in this part 7 shall be construed as applying to any proceedings taken under this part 7 or acts done pursuant thereto, except as otherwise provided in this part 7.

(3) The powers conferred by this part 7 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this part 7 shall not affect the powers conferred by any other law.

(4) Nothing in this part 7 shall prevent the exercise of any power granted to the committee or to a district acting by and through its committee, or any officer, agent, or employee thereof, by any other law.

(5) No part of this part 7 shall repeal or affect any other law or part thereof, it being intended that this part 7 provide a separate method of accomplishing its objectives and not an exclusive one; and this part 7 shall not be construed as repealing, amending, or changing any such other law.

**Source: L. 75:** Entire article added, p. 784, § 1, effective July 1.

**23-71-712. Liberal construction.** This part 7, being necessary to secure the public health, safety, convenience, and welfare, shall be liberally construed to effect its purposes.

**Source: L. 75:** Entire article added, p. 785, § 1, effective July 1.

**23-71-713. Validation.** All pledges of pledged revenues (including but not necessarily limited to grants, appropriations, and other donations from the United States or its agencies and any other donor, except the state or its agencies or political subdivisions) made to the payment of revenue bonds of junior college districts and community and technical colleges

prior to April 5, 1973, and all revenue bonds of junior college districts and community and technical colleges which were issued prior to said date are validated, ratified, approved, and confirmed.

**Source: L. 75:** Entire article added, p. 785, § 1, effective July 1.

## **ARTICLE 72**

### **Affiliated Junior College Districts**

#### **23-72-101 to 23-72-128. (Repealed)**

**Editor's note:** (1) This article was added in 1988. For amendments to this article prior to its repeal in 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 23-72-128 provided for the repeal of this article, effective July 1, 2009. (See L. 2000, p. 1860.)

## **ARTICLE 73**

### **Colorado Institute of Technology**

#### **23-73-101 to 23-73-106. (Repealed)**

**Source: L. 2007:** Entire article repealed, p. 58, § 1, effective August 3.

**Editor's note:** This article was added in 2000. For amendments to this article prior to its repeal in 2007, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## **EDUCATIONAL PROGRAMS**

## **ARTICLE 74**

### **Southern Colorado Council for Excellence in Health Careers Education**

#### **23-74-101 to 23-74-108. (Repealed)**

**Editor's note:** (1) This article was added in 2007 and was not substantially amended prior to its repeal in 2012. For the text of this article prior to 2012, consult the 2011 Colorado Revised Statutes, chapter 189 of the Session Laws of Colorado 2012, and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 23-74-108 provided for the repeal of this article, effective July 1, 2012. (See L. 2007, p. 874.)

(3) This article was amended by House Bill 12-1080. Those amendments were superseded by the repeal of this article, effective July 1, 2012. For the amendments to this article that were in effect from May 19, 2012, to July 1, 2012, see chapter 189, Session Laws of Colorado 2012. (L. 2012, pp. 760, 761.)





















































